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APPENDIX

TO

Journals of Senate and Assembly

OF THE

TWENTIETH SESSION

OF THE

LEGISLATURE OF THE STATE OF CALIFORNIA.

Volume V.



SACRAMENTO:

G. H. SPRINGER, STATE PRINTER.

1874.

APPENDIX

Journals of Senate and Assembly

OF THE

TWENTY-THIRD SESSION

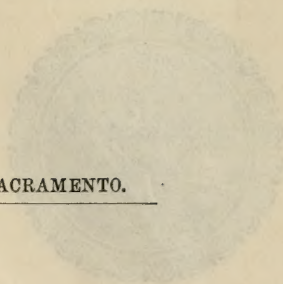
OF THE

LEGISLATURE OF THE STATE OF CALIFORNIA

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Volume V.

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SACRAMENTO:
J. H. SPRINGER, STATE PRINTER.

1871

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REPORT

OF

THE CALIFORNIA PRISON COMMISSION

FOR THE

AMELIORATION OF THE CONDITION OF PRISONERS, * * * THE
IMPROVEMENT OF PRISONS AND PRISON DISCIPLINE, * * *
THE AID AND ENCOURAGEMENT OF DISCHARGED PRISONERS,
WHENEVER SUCH AID AND ENCOURAGEMENT SEEM HOPEFUL
AND WISE.—[From Article II of the Constitution.

LIST OF OFFICERS.

ALPHEUS BULL.....President.
DR. HENRY GIBBONS.....Vice President.
JAMES WOODWORTH.....Secretary.

TRUSTEES:

REV. ALBERT WILLIAMS,
C. L. TAYLOR,
JAMES LINFORTH,
W. O. ANDREWS,
NATHANIEL GRAY,
J. W. H. CAMPBELL,

GEORGE C. HICKOX,
JOHN ARCHBALD,
P. L. WEAVER,
C. V. S. GIBBS,
PRESIDENT D. C. GILMAN,
W. R. WHEATON.

C. L. TAYLOR.....Treasurer.
ROBERT BEECHING.....General Agent.

REPORT.

To the honorable Senate and Assembly of the State of California:

In accordance with the requirements of the law, the following statements concerning the work of the California Prison Commission, for the two years ending November seventeenth, eighteen hundred and seventy-three, are hereby presented. The expenses for that time were:

For salary of General Agent.....	\$2,400 00
For office rent.....	240 00
For direct relief of discharged prisoners.....	1,179 03
For printing, office expenses, stationery, postage, traveling expenses, etc.....	364 86
Total	\$4,183 89

Discharged prisoners have been aided during the two years, as follows:

By supplying with board and lodging, two hundred and seven.

By supplying with money, in small sums, for necessary expenses, four hundred and thirty.

By supplying with means to leave the city, two hundred and seventy-nine.

Besides these a number have been supplied clothing, of which they were greatly in need, and others have been assisted in obtaining employment.

In addition to the above, two hundred and twelve persons, under arrest, on various charges, have been supplied with legal counsel for their defense, their cases having first been investigated by our general agent, and they having been found to be destitute, and deserving of assistance. Seventy-five have been released through the efforts of the agent, their discharge having been shown to be right and proper. He has also secured mitigation of punishment for one hundred and thirty-four.

The whole number of prisoners met by the agent, before and after their discharge, for counsel and advice, during the two years, is two

thousand four hundred and sixty-four. Of these, many have been aided by personal effort on his part, in various ways, not indicated by the figures here given. The amount given as disbursed for discharged prisoners, represents only the cash actually paid out for this purpose.

That which is really saved by reduction obtained in the price of board and lodging, by donations of clothing, etc., and in free and half fare passes over the lines of travel, besides the money and other means supplied to many of the men by individuals, through the influence of the general agent, the report of the Treasurer does not show.

Some idea of the amount of labor performed by the agent in the discharge of his duties, will be had when it is stated that, during the period of two years covered by this report, he has held five thousand eight hundred and thirty-three interviews with prisoners, actual or discharged; has received one thousand one hundred and eighty-one visits at the office from discharged prisoners; and has himself paid five hundred and seventy-six visits to the City Prison, in this city; two hundred and four to the County Jail; twenty-six to the State Prison, at San Quentin; and has written three hundred and twenty-eight letters, mostly on behalf of prisoners, to their friends.

Hoping that these statements will prove satisfactory to your honorable body, they are most respectfully submitted.

ALPHEUS BULL,
President.

H. GIBBONS,
Vice President.

JAMES WOODWORTH,
Secretary.

C. L. TAYLOR,
Treasurer.

ROBERT BEECHING,
General Agent.

SAN FRANCISCO, January 8th, 1874.

STATE OF CALIFORNIA, }
City and County of San Francisco. } ss.

I, James Woodworth, Secretary of the California Prison Commission, do solemnly swear, upon oath, that the foregoing statement is true, to the best of my knowledge and belief.

JAMES WOODWORTH.

{ SEAL } Subscribed and sworn to before me, this ninth day of January, eighteen hundred and seventy-four.

ARNOLD FULLER,
Notary Public.

MINORITY REPORT

OF

Senate Judiciary Committee

ON THE CONSTITUTIONALITY OF

ASSEMBLY BILL No. 91.

title in the city. It is nowhere contended that these conditions have not been precisely performed.

We have here, then, all the elements of a legislative contract, between the law-making power on the one hand and the owners of the lands on the other, that the streets in reference to which they acquired title to their lands should permanently remain public streets and highways. This bill seeks to violate this compact, both in letter and in spirit. Can this be done?

The power of the Legislature to close, or authorize to be closed, the streets of a municipal corporation, has been frequently discussed in the Courts of the different States of the Union, and we confess the adjudications on the subject are neither uniform nor satisfactory. Judge Dillon, in his work on "Municipal Corporations," section five hundred and twenty-seven, says: "The plenary power of the Legislature over streets and highways is such that it may, in the absence of special constitutional restriction, vacate or discontinue them, or invest municipal corporations with this authority, and this power, when exercised with due regard to individual rights, will not be restrained at the instance of a property owner claiming that he is interested in keeping open the streets dedicated to the public," and refers to the case of *Gray v. Iowa Land Company* (26 Iowa Reports, pp. 307 and 308), as sustaining the text. On examining that case, we find that the Court guarded its decision by saying that it would not be understood as holding that a Town Council could, at its mere will, arbitrarily, without regard to individual rights, vacate the public streets of the city. They say: "We are very far from laying down a proposition or rule so broad that a case might arise demanding equitable interposition at the instance of a citizen. We can well imagine the only hold that the Council has, the power to vacate, and that in this case it seems to have wisely, discreetly, and safely exercised it, no one, and, last of all the appellant, being materially injured."

No one contends that the City of San Francisco, under legislative authority, cannot vacate a street; but the naked power to vacate is one thing, while the mode of its exercise is quite another. The mode, in all cases, must preserve individual rights, or it is in hostility to the constitutional provision prohibiting the taking of private property for any but a public use, and then only on making due compensation.

This bill defiantly proposes the destruction of rights of property without any sort of compensation; it seeks to take the property of the citizen without his consent, and without compensation; not to devote it to a public purpose, but to confer it upon individuals, for a private purpose; a thing never authorized by the law of eminent domain.

Respectfully submitted.

W. J. GRAVES,
J. J. DEHAVEN,
T. H. LAINE.

REPORT

OF

Committee on Military Affairs.

G. H. SPRINGER.....STATE PRINTER.

REPORT.

MR. SPEAKER: Your Committee on Military Affairs respectfully report that, in accordance with their duties, they have visited and inspected that portion of the Second Brigade of California organized and located in San Francisco.

The limited time at our disposal prevented us from visiting other portions of the State to investigate the affairs of the militia, but we have been waited on by many of the members thereof from various portions of the State, and received communications from many sources, civil as well as military, asking that the present status of the militia be left undisturbed, and bearing testimony to the effectiveness of its organization and discipline.

The First and Second Regiments of Infantry were mustered and paraded in our presence at San Francisco. Notwithstanding but a few hours notice to assemble had been given the men, the company ranks were well filled, and both regiments made a splendid appearance. We find the rank and file composed of the best material of the representative classes of San Francisco.

We were particularly impressed with the discipline, and believe it unexcelled by any body of citizen soldiery. Their proficiency in martial exercise evidences the expenditure of many hours of patient toil and earnest endeavor. That the schools of the soldier, company and battalion, had been carefully studied and thoroughly practiced, was demonstrated by the rapidity, ease, and precision with which the various evolutions were performed: it was worthy of veterans.

To Colonel Wm. H. L. Barnes, commanding the First Infantry Regiment, the highest credit should be awarded for having, by his individual exertions, armed his command with the latest pattern of breech loading rifles, and supplying it with complete camp equipage, without cost to the State. Both officers and privates are uniformed in accordance with the latest regulations of the United States Army. The armory of this regiment is most admirably arranged, and if the State does not own and provide a suitable building for the use of the militia of San Francisco for armory purposes, we would recommend the armory of the First Regiment to other regiments of the State as an excellent model. The companies of the Second Regiment are mostly uniformed in accordance with regulations, and efforts are being made to procure arms and equipments such as are used by the First Regiment. The muzzle-loading Springfield muskets in possession of these organizations, as well as accouterments, are the property of the State, and we gladly bear testimony that the care of the same appears perfect, and no arms or equipments can better bear critical inspection.

We regret that our time did not permit our reviewing the Third

Infantry Regiment, the Cavalry Battalion, and the artillery, but we have every reason to believe that they are lacking in none of the good features of those commands inspected by us

The military force in the metropolis is surely an invaluable adjunct of the civil authorities, and we firmly believe that it is a great moral check upon the turbulent elements of the cosmopolitan community of San Francisco.

The abolition of it would endanger the security of life and property in that city, and at some time imperil the safety of all these. Nearly every company in the State is in debt for new uniforms, "being the same as that adopted and in use by the Army of the United States." California has declined to furnish clothing, and at the last session, the monthly allowances of money were increased so as to provide a fund for the purchase of uniforms. This money, we find, has been in every instance properly applied, and now, after a lapse of nearly two years, this indebtedness has been about half extinguished. The commanding officers and others have become responsible for these amounts, and it would be grossly unjust upon the part of the State to cut off allowances at this time, and permit these gentlemen to suffer great pecuniary loss, on account of a breach of implied faith on the part of the State, should the Legislature repeal the law authorizing the payment of these allowances now provided for in the Code. We are clearly of the opinion that this indebtedness should be assumed by the State, and an appropriation made for its liquidation.

We have also made a thorough inspection of the State Armory, and find that the property therein stored has been as well cared for as has been possible with the small number of persons employed. It is desirable that all this property should, at an early date as possible, be placed in perfect condition, so that if the proposed measure now pending in the Federal Congress becomes a law, the State can exchange the arms on hand for those of later and improved patterns, without delay, and with but slight abatement of value. Instead of reducing the force now employed, we suggest an increase, so that repairs and cleaning may be had with the least delay. As the State holds this property in trust from the General Government, she should do so in good faith, and keep it in as good order as may be. As it now stands, every passing week and month works an injury which no prudent person in his own affairs would permit.

We have examined into the affairs of the Adjutant General's office, and find the public business of that branch of the State service has received thorough and careful attention at the hands of the present incumbents. The books and papers are excellently kept upon a system resembling as nearly as possible that in vogue at army headquarters in Washington.

A well regulated body of citizen soldiery is to our minds one of the indispensable safeguards of liberty in a State like ours, furnishing a safeguard alike against foreign aggression and domestic disorder, and should be fostered and liberally cared for. In conclusion, we cheerfully testify our belief that every member of the National Guard, with whom we have been brought in contact, is a good citizen (every class and condition of society being therein represented), and inspired singly and as an organization by a laudable ambition to serve the State and uphold its laws.

PISHON, Chairman.

SACRAMENTO, March 24th, 1874.

MINORITY REPORT

OF THE

Committee on Ways and Means, .

AGAINST THE PASSAGE OF

SENATE BILL No. 358,

TO PROVIDE FOR THE PURCHASE OF THE
PORTRAITS OF EX-GOVERNORS.

G. H. SPRINGER.....STATE PRINTER.

REPORT.

MR. SPEAKER: The undersigned members of the Committee on Ways and Means ask leave to submit the following minority report relative to Senate Bill No. 358:

Your committee beg to call the attention of the House to a fact very patent to every member, that during the canvass previous to our election, we jointly and severally pledged ourselves to advocate only measures of economy and reform, and that, under no circumstances, would we give our countenance or support to any measure which should seek to extract a single dollar from the public funds that did not embrace either a just claim, an appropriation of public necessity, or a matter of great public utility.

We would most respectfully represent that we have watched, with unceasing vigilance, during the entire session, for some measure to come before the House that could not be classed under either of those heads, that we might redeem the pledge; and we welcome the advent of Senate Bill No. 358 with hearty greeting, as affording us the desired starting point.

Your committee believe that an appropriation of this character can only be prompted by one of two motives: either to perpetuate the great and noble acts of faithful and worthy servants, or as complimentary to those who have held positions of public trust, whose names would not else be handed down to posterity. If the former be the object, then your committee believe that the object can be obtained in a much more desirable manner by the pen of the historian; since, comparatively, only a favored few will have the opportunity of gazing upon their portraits, and none can learn their glorious deeds therefrom, while, if the historian but writes their names upon the scroll of fame, future generations will point with pride to their noble records, and imbue the minds of their junior members with the spirit of emulation, as do we the minds of the rising generation of the present, by referring to the act of our immortal "Washington and his little hatchet."

If the latter be the object, then we submit that the bill should be so amended as to embrace all public servants, and more especially would we urge that it should embrace all the members of the present Legislature, who, we are proud to say, are quite as anxious that posterity should know and recognize our worth as can be any of our ex-Governors, while we are forced, reluctantly, to confess our chances are infinitely less. Your committee would further state, that when the motion was before

us in committee meeting, asking for a favorable report, we were equally divided, and that our worthy Chairman decided by casting his vote in the affirmative.

In view of these facts, we would respectfully recommend that the bill do not pass.

S. B. BURT,
JAS. DIXON,
F. C. FRANCK,
WM. HILL.

REPORT

OF

Senate State Hospital Committee

ON

DEAF, DUMB, AND BLIND ASYLUM.

T. A. SPRINGER.....STATE PRINTER.

REPORT.

MR. PRESIDENT: The Senate Committee on State Hospitals have the honor to report, that in accordance with their duties, they visited and inspected the Deaf, Dumb, and Blind Asylum, located near Oakland.

The building presents a prepossessing appearance, both externally and internally, and is apparently kept in the best possible order.

As considerable discussion occurred some months ago through the public press, in reference to the management of the institution, more particularly in regard to the kind of food furnished the inmates, your committee made a thorough examination in reference thereto, and would state that the food furnished is sufficient in quantity and quality. As to the quality of food furnished, we present the following bill of fare, which, we understand, is strictly complied with, classified as the first week:

BILL OF FARE.

Breakfast: Sunday—baked beans and potatoes. Monday—cakes and syrup, and cold meat. Tuesday—mackerel and boiled potatoes. Wednesday—hash. Thursday—codfish and baked potatoes. Friday—wet stew and boiled rice. Saturday—hash, and each morning, coffee, bread and butter.

Dinner: Sunday—steak, two kinds vegetables, and pie. Monday—soup and boiled beef, two kinds vegetables. Tuesday—roast mutton, potatoes, fruit. Wednesday—stew, pudding. Thursday—roast beef, two kinds vegetables. Friday—fish, potatoes, fruit. Saturday—beans, potatoes.

Supper: Sunday—tomatoes. Monday—apple sauce. Tuesday—cookies and dried beef. Wednesday—tomatoes. Thursday—peach sauce. Friday—gingerbread and dried fruit. Saturday—cold meat, and each evening, tea, and bread and butter.

The bill of fare for other weeks is of the same nature, except that the food furnished is changed as to days when furnished.

When the committee visited the asylum, it was done without knowledge of the Superintendent of the institution; and, in fact, made secretly purposely, so that no preparation could be made for our reception. Arriving at the institution at the hour for dinner, we found the pupils seated at a table containing a sufficiency of substantial food to satisfy the appetite of any one. Questions were asked of the pupils if sufficient food was furnished, and with but one exception an affirmative answer was given, the exceptional case being that of a grown pupil who complained of the lack of fruit received.

The neatness and cleanliness of the entire institution was remarked, and, as was stated before, the visit being unknown to those in charge, good and sufficient evidence that the same condition existed at all times.

The pupils of both the deaf and dumb department, and those of the

blind department, were examined as to the facilities furnished them to receive an education and trade whereby they can be made useful citizens.

The deaf and dumb, having the advantage of sight, are of less trouble than the blind, and learn more readily, though the latter show a greater proficiency in educational qualifications. The workshops for both classes of male patients—broom and basket making for the blind, shoe and cabinet making for the deaf and dumb—though not on an extensive scale, shows, by the numbers occupied therein, the keen appreciation those who learn the trades named, have for an occupation that in the future will make them independent of State charity.

As a majority of the inmates are of tender age, no necessity exists at present for any further appropriation for workshops or materials used therein, the amount asked for, for maintenance, being sufficient for all the wants of the institution.

The committee, after carefully considering all the needs of the institution, recommend that the sum of seventy two thousand dollars be allowed for the two fiscal years ending June thirtieth, eighteen hundred and seventy-five, and that an additional sum of one thousand (\$1,000) dollars be allowed for the purpose of laying down a plank walk to or adjacent to the street cars, and if said sum is more than sufficient the surplus to be used by the Directors in purchasing lumber to be used within the grounds.

Part Three (3), Title Five (5), Chapter Two (2), Section Twenty-two Hundred and Forty, of the Political Code, makes it obligatory on the State to clothe all the pupils, which, if enforced, necessitates the additional expense of thirty-seven hundred and fifty dollars per annum.

The committee recommend that the bill introduced by Senator Bush, now before the Senate, in reference thereto, be enacted, thereby repealing said section of the Code, and saving to the State the amount named.

As the institution is at present managed, in regard to clothing, the pupils, whose parents are able, generally receive from them suitable wearing apparel, while those who are not able to furnish clothing are comfortably provided for from the surplus of the amount appropriated for maintenance.

The number of pupils of both classes and sexes now residing at the asylum is ninety-six (96); the yearly average, for the past two years, being ninety (90).

The amount recommended is made upon the basis that before the session of the next Legislature the number will be increased to one hundred and twenty-five (125) inmates. The previous Legislature made the appropriation upon the same basis, but as yet the number of inmates have not reached the limit, consequently a small surplus remained, which was used in the purchase of clothing and materials to be used in the workshops.

The charity of the State in providing for those so unfortunately afflicted is of a nature that, under no circumstances, can we recommend less than is actually necessary for their education and comfort. The deaf and dumb, by signs, the blind, by articulation, appeal for further aid in advancing them in the mechanics and arts, and your committee cheerfully acquiesce in their requests. From observations made, your committee take pleasure in recommending the management as a successful one, and as also reflecting credit upon all the officials connected therewith.

BUSH, Chairman.

REPORT OF JOINT COMMITTEE

ON

Constitutional Convention.

T. A. SPRINGER.....STATE PRINTER.

REPORT.

MR. PRESIDENT: The joint committee appointed in pursuance of Assembly Joint Resolution No. 18, which reads as follows: "*Resolved*, by the Assembly, the Senate concurring, That a committee of three from the Senate and four from the Assembly be appointed to consider and report upon the necessity and policy of calling a Convention to revise the State Constitution," have considered the subject matter submitted to them, and now report the resolution back with the result of their deliberation.

That our State Constitution needs a thorough revision seems to be beyond question. Admirable as was that instrument in the first place, and well adapted to the condition of things existing at the time of its adoption, the great and radical changes which have taken place, not only in our State, but in the country at large, have rendered many parts of it inapplicable to the present phases of our civilization, if not in open antagonism thereto. The difference between our condition now and twenty-three years ago, is so great that if it was the result of a more speedy process, it could only be expressed by the word, Revolution!

A necessity for a change in the organic law being conceded, the only question left is as to the method by which that change shall be effected; whether in detail by the action of the Legislatures, aided by the votes of the people, or by an examination, review, and revision of the whole instrument by a body of citizens called together in lawful form for that specific purpose. The committee prefer, and therefore recommend the latter plan, for many reasons:

First—The method of amendment by the Legislature is not satisfactory in theory, and has not proved to be so in result. It is simply impossible for members of the Legislature to give to these subjects that thought and attention which their importance demands while oppressed with their other legislative duties.

Second—The people, in voting upon a single amendment, do not give to it that study or reflection which they would if the whole instrument was submitted and the whole question involved.

Third—Amendments good in themselves, as an isolated and independent proposition, are often found, when attempted to be placed in the body of the Constitution, not to fit in or harmonize with other portions of the general framework.

Fourth—It is to the people themselves that the question of a Convention is to be submitted, and to assume that they cannot decide it prop-

erly would be to insult their intelligence, and perhaps amount to a denial of one of their rights.

Fifth—The present condition of our laws for the assessment and collection of taxes for revenue, is, in the last degree, unsatisfactory; and the decisions of our Supreme Court as to the bearing of the Constitution upon our revenue laws, leave the whole matter in a state of painful uncertainty. If a Constitutional Convention could accomplish no other object than to frame an amendment to the organic law which will prepare the way for a just and equitable system of property assessment, and thereby properly adjust the burdens of taxation, that alone would warrant its assemblage; and the bare hope of such a result, in our judgment, warrants its calling. We are persuaded that if an election be had, at which there shall be no side issues to distract the mind of the voter from the single question of constitutional amendment, we will have a Convention of earnest, thoughtful, practical men, able and willing to address themselves to their great task, and that the result of their labors will be a new Constitution which will reflect credit upon its authors, and promote the welfare of the whole people.

Sixth—The proper adjustment of the great issues between the people and the railroad corporations, can, in our judgment, be more nearly arrived at by proper amendments to the organic law, than by fleeting and transitory legislation. For these, and other reasons, we recommend that the Legislature, at its present session, take proper steps to submit to the electors at the next election for members of Senate and Assembly, the question as to whether or no they favor the calling together of a body of themselves to form a Constitutional Convention, in accordance with Section Two, of Article Ten, of the Constitution.

WM. WIRT PENDEGAST,
GEORGE S. EVANS,
WILLIAM J. GRAVES,

On the part of the Senate.

P. COGGINS,
W. J. GURNETT,
DANIEL ROGERS,
G. W. GIFFEN,

On the part of the Assembly.

REPORT OF JOINT COMMITTEE

ON THE

MEMORIAL OF THE CALIFORNIA WOMAN'S
SUFFRAGE ASSOCIATION.

G. H. SPRINGER.....STATE PRINTER.

REPORT.

Mr. SPEAKER: The joint committee appointed to consider "the matters embraced in the memorial of the California Woman Suffrage Association," beg leave to submit the following report:

The committee have had several meetings, but have deemed it inexpedient to recommend any specific action, for the reason that a number of bills touching the legal rights and disabilities of women, have been, from time to time, submitted to the consideration of the Legislature, and the members of the committee have given to such bills such personal support as in their estimation their merits demanded.

One bill has become a law, which renders women eligible to educational offices throughout the State, except such as the Constitution may exclude them from. Such changes have been made in the Civil Code as will give married women a greater degree of control over their separate property than they have heretofore exercised. Other changes in the law, favorable to the objects of the petitioners, have been made, while some bills, which in our opinion ought to have passed, have been defeated.

Your committee have not deemed it necessary to recommend the adoption of an amendment to strike out the word "male" from the Constitution, because a proposal was introduced at an early day to call a Convention for the revision of the entire Constitution. A law has been passed which will doubtless result in the holding of such a Convention as early as practicable; and your committee anticipate many good results therefrom.

SELDEN J. FINNEY,
DAVID GOODALE,
Committee of the Senate.

W. A. ALDRICH,
P. COGGINS,
A. HIGBIE,
Committee of the Assembly.

REMONSTRANCE

FROM

CITIZENS AND RESIDENTS OF THE CITY OF
SACRAMENTO

AGAINST THE PASSAGE OF

FREEMAN'S FREIGHT AND FARE BILL.

REPRINTS

TO THE EDITOR OF THE
REPRINTS

G. H. SPRINGER.....STATE PRINTER.

REMONSTRANCE.

To the honorable the Legislature of the State of California, now in session:

The undersigned, citizens and residents of the City of Sacramento, and engaged in mercantile and other business pursuits in said city, would respectfully represent that they have watched, with great solicitude, the progress of the bill known as Freeman's Bill, to regulate freights and fares on railroads.

We have examined the provisions of said bill, and have carefully considered the grounds upon which it professes to be based, and, after mature reflection, are satisfied that its passage would work incalculable injury to the mercantile and business interests of California.

The history of the world shows that trade and commerce will always right themselves, and that the less they are trammelled by positive and arbitrary laws, the better. Rules, which to-day may be eminently proper, might, a few months hence, operate most injuriously, and rates and fares which would be abundantly remunerative in other places, and in different circumstances, would be totally inadequate in California.

In addition to this, the management of railroads in California, is in the hands of men who have been largely engaged in mercantile pursuits, and are thoroughly conversant with the laws and wants of trade, and in whose integrity and business qualifications, notwithstanding the sneers of their enemies, we have the most perfect confidence.

Knowing, as we believe they do, the wants of trade, self-interest, if nothing else, would cause them to regulate rates and fares in such a manner as to be of the greatest benefit to the greatest number, for therein lies their profit.

To us it seems to be more wise to leave the regulations of these matters to men of intelligence, who have made it their study for years, than to those who, from the nature of their habits and pursuits, can have but a very limited knowledge of the subject.

Wherefore, we pray that neither the bill mentioned, or any other upon the same subject, may be enacted by your honorable bodies.

D. W. Earl.
H. G. Smith & Co.
Samuel Cross.
Julius Wetzlar.

J. H. Wilson.
John Quin.
W. Sharp.
B. Dennery & Co.

C. McCreary & Co.
 A. Reddington & Son.
 Whyte & Nicholl.
 G. H. Swinerton.
 Geo. W. Gilbert.
 Gilbert & Wellington.
 Baker & Hamilton.
 Dresbach & Co.
 G. W. Chesley & Co.
 J. P. Lowell & Co.
 Hunt & Anderson.
 N. L. Drew & Co.
 Adams, McNeil & Co.
 Friend, Terry & Co.
 J. H. Carroll & Co.
 R. T. Brown & Co.
 Lyon & Barnes.
 A. H. Cummings & Co.
 H. M. Bernard.
 Fox & Strutz.
 Edward Cadwalader.
 A. Dennergy & Co.
 W. P. Coleman.
 Locke & Lavenson.
 R. C. Woolworth.
 Ebner Bros.
 J. F. Houghton.
 Sweetser & Alsip.
 James Carolan & Co.
 A. Hamburger & Co.
 Edward R. Hamilton.
 D. H. Quinn.
 T. H. Quatman.

H. Fisher.
 John R. Brown.
 Wm. W. Marvin.
 S. Lipman & Co.
 R. C. Terry & Co.
 R. Stone & Co.
 Allen & Scott.
 Justin Gates & Bros.
 J. Rueff & Co.
 W. A. Hedenburg & Co.
 Van Heusen & Huntoon.
 G. Coolot.
 J. T. Griffiths & Co.
 Mike Bryte.
 P. H. Russell & Co.
 R. Dale.
 S. Roth.
 Rothfeld Bros.
 Robert T. Beck.
 D. McKenzie.
 C. W. Rapp & Co.
 J. C. Meussdorffer.
 John F. Slater.
 R. C. Clark.
 Nelson & Mason.
 S. J. Mathews & Co.
 Milliken Bros.
 Bush Bros.
 Green & Trainor.
 Mebius & Co.
 A. & J. Black.
 Geo. Rowland.

REPORT OF JOINT COMMITTEE

ON PROPRIETY OF CALLING A

Constitutional Convention.

T. A. SPRINGER.....STATE PRINTER.

REPORT.

MR. SPEAKER: The joint committee appointed in pursuance of Assembly Joint Resolution No. 18, which reads as follows:

Resolved by the Assembly, the Senate concurring, That a committee of three from the Senate and four from the Assembly be appointed to consider and report upon the necessity and policy of calling a Convention to revise the State Constitution;

Have considered the subject matter submitted to them, and now report the resolution back with the result of their deliberations:

That our State Constitution needs a thorough revision seems to be beyond question. Admirable as was that instrument in the first place, and well adapted to the condition of things existing at the time of its adoption, the great and radical changes which have taken place, not only in our State, but in the country at large, have rendered many parts of it inapplicable to the present phases of our civilization, if not in open antagonism thereto. The difference between our condition now and twenty-three years ago is so great that, if it was the result of a more speedy process, it could only be expressed by the word, Revolution.

A necessity for a change in the organic law being conceded, the only question left is as to the method by which that change shall be effected; whether in detail, by the action of the Legislature, aided by the votes of the people, or by an examination, review, and revision of the whole instrument, by a body of citizens called together in lawful form for that specific purpose. The committee prefer, and therefore recommend, the latter plan, for many reasons:

First—The method of amendment, by the Legislature, is not satisfactory in theory, and has not proved to be so in results. It is simply impossible for members of the Legislature to give to these subjects that thought and attention which their importance demands while oppressed with their other legislative duties.

Second—The people, in voting upon a single amendment, do not give it that study or reflection which they would if the whole instrument was submitted and the whole question involved.

Third—Amendments, good in themselves as an isolated and independent proposition, are often found, when attempted to be placed in the body of the Constitution, not to fit in or harmonize with other portions of the general framework.

Fourth—It is to the people themselves that the question of a Convention is to be submitted, and to assume that they cannot decide it properly would be to insult their intelligence, and, perhaps, amount to a denial of one of their rights.

Fifth—The present condition of our laws for the assessment and collection of taxes for revenue is in the last degree unsatisfactory, and the decisions of our Supreme Court, as to the bearing of the Constitution upon our revenue laws, leave the whole matter in a state of painful uncertainty.

If a Constitutional Convention could accomplish no other object than to frame an amendment to the organic law, which will prepare the way for a just and equitable system of property assessment, and thereby properly adjust the burdens of taxation, that alone would warrant its assemblage, and the bare hope of such a result, in our judgment, warrants its calling.

We are persuaded that if an election be had, at which there shall be no side issues to distract the mind of the voter from the single question of constitutional amendment, we will have a Convention of earnest, thoughtful, practical men, able and willing to address themselves to their great task, and that the result of their labors will be a new Constitution which will reflect credit upon its authors and promote the welfare of the whole people.

Sixth—The proper adjustment of the great issues between the people and the railroad corporations can, in our judgment, be more nearly arrived at by proper amendments to the organic law than by fleeting and transitory legislation.

For these and other reasons we recommend that the Legislature, at its present session, take proper steps to submit to the electors, at the next election for members of Senate and Assembly, the question as to whether or no they favor the calling together of a body of themselves to form a Constitutional Convention in accordance with Section Two, of Article X, of the Constitution.

W. W. PENDEGAST,
GEORGE S. EVANS,
W. J. GRAVES,

On the part of the Senate.

P. COGGINS,
W. J. GURNETT,
DANIEL ROGERS,
G. W. GIFFEN,

On the part of the Assembly.

FEBRUARY 25th, 1874.

REPORT OF ASSEMBLY COMMITTEE

ON

Public Buildings and Grounds

ON

NAPA STATE ASYLUM FOR THE INSANE.

T. A. SPRINGER.....STATE PRINTER.

REPORT.

MR. SPEAKER: Your Committee on Public Buildings and Grounds having, in the discharge of their duties, visited the site of the "Napa State Asylum for the Insane," and examined into the affairs and the management of the Board of Directors thereof, beg leave to submit the following report:

First—We find that, under and by virtue of the provisions of section twenty-one of the Act entitled "An Act to provide further accommodations for the insane of the State of California and to provide a special Fund therefor," the Governor did, on the tenth day of April, eighteen hundred and seventy-two, appoint C. H. Swift, G. A. Shurtleff, and E. T. Wilkins, as Commissioners to select a site for the asylum provided for in said Act. Said Commissioners reported to the Governor, on the second day of August, eighteen hundred and seventy-two, that they had selected such site, and described the same as being "situated one mile and a half southeast of Napa City, and containing two hundred and eight acres of land, of which about forty acres is bottom land, one hundred and sixty table land, and eight acres of mountain land." This report was approved by the Governor and Thomas M. Logan, Secretary of the State Board of Health, August twelfth, eighteen hundred and seventy-two.

On the twenty-third day of August, eighteen hundred and seventy-two, the Governor did, in accordance with section five of said Act, appoint J. H. Goodman, C. Hartson, and R. H. Sterling as Directors to manage the affairs of said institution, to hold office for two years from the date of their appointment, and J. H. Jewett and J. F. Morse as such Directors, to hold office for the term of four years from the date of their appointment. These Directors met and organized on the thirteenth day of September, eighteen hundred and seventy-two, by electing Dr. J. F. Morse as President, J. H. Goodman as Vice President, and W. C. Watson as Treasurer and ex officio Secretary. At this meeting the Directors "resolved to advertise for plans and specifications for an asylum building," and offered premiums of one thousand five hundred dollars for the best plan, one thousand dollars for the second best, and five hundred dollars for the third best plan, with the stipulation that the building should be of sufficient capacity to accommodate at least five hundred patients, and should not cost when completed an amount exceeding six hundred thousand dollars.

On the sixteenth day of January, eighteen hundred and seventy-

three, plans were submitted by J. W. Bones, Bugbee & Sons, A. F. Eisen, Wright & Sanders, J. Gasling, Coulette & Johnson, and J. J. Newsom.

On the twenty-third day of January, said plans were examined by the Board of Directors, Governor Booth, and Doctors G. A. Shurtleff and E. T. Wilkins, in accordance with the provisions of section seven of the Act aforesaid, and on the eleventh day of February, eighteen hundred and seventy-three, the premiums were awarded by the Board as follows:

First premium to Wright & Sanders.

Second premium to Bugbee & Sons.

Third premium to A. F. Eisen.

The plan of Wright & Sanders, copies and descriptions of which may be found in the printed report of the Board of Health, pages seventy-eight to eighty-three, was officially adopted, and those gentlemen selected as Architects and Superintendents.

As appears from the printed reports of the Directors, page four, "advertisements soon followed for cement, lime, and bricks, which resulted in the acceptance of the bids of the Pacific Cement Company for cement, at three dollars and thirty cents per barrel; of Cox & Colby for plain bricks, at nine dollars eighty-seven and one half cents per thousand, and pressed bricks at twenty-nine dollars per thousand; and H. K. Knapp, for lime, at one dollar and eighty-five cents per barrel.

"After duly advertising for estimates on the foundation, the contract was made with J. Cochrane, upon the presumption that he could quarry the necessary stone material on the ledge adjacent to the asylum grounds, for the total sum of sixty-four thousand four hundred and forty-four dollars, proper bonds secured, and the work immediately commenced."

In reference to having contracted for the foundation of the whole building, instead of proceeding to erect one section, in accordance with the provisions of sections seven and twenty-three of the Act, the Directors, on page four of their report, make the following statement:

"That while determined to obey the meaning and direction of the statute under which they are appointed, yet, in the contract for the foundation, the demonstrable difference in outlay and convenience was so much in favor of a contract for the whole foundation, that they determined to allow this much of the work to be done at once. This they did not do, however, until consultation with disinterested architects and builders as to the general question of economy and convenience in future work."

Under the contract above referred to, the foundations of the whole building, including a granite sill course, which has since been added, has been nearly completed; and, together with such alterations and additions as have been suggested from time to time as the work progressed, including earthquake-bonding, have cost nearly one hundred thousand dollars.

Your committee find the work to be well done, with the best of material and workmanship, reflecting great credit upon both the Directors and their architects, as well as the contractor. We find, also, from the evidence submitted to us, that the Directors have advertised for proposals to complete the superstructure, in two separate contracts, one being for the carpenter work and the work usually coming under that head, and the other being for brick work and the other work usually let

under that head, and that, in pursuance of such advertisement, they had submitted to them the following proposals:

BIDS OF CARPENTER WORK AND MATERIALS.

By—	Section 1.	Section 2.	Section 3.
George Middlemiss.....	\$186 900	\$76,250	\$76,250
Thomas Moffatt.....	144,650	57,783	57,783
F. L. Taylor	140,000	52,500	52,500
Beeby, Robinson & Son.....	137,103	45,000	45,000
Wilcox & Ferguson.....	135,000	60,000	60,000
Wm. Bradford.....	127,746	47,931	47,931
J. C. Gibson.....	118,736	54,983	54,983
Sevain & Hudson.....	114,400	44,450	44,450
A. H. Manson.....	114,000	38,500	38,500
Robert Ewing.....	105,868	45,250	45,250
Thomas H. Day.....	107,000	46,000	46,000
McFadden & Miles.....	102,200	44,850	44,850
C. L. Mayberry.....	92,973	36,985	36,985

BIDS ON BRICK WORK.

By—	Section No. 1.	Section No. 2.	Section No. 3.
Robert Ewing.....	\$113.179	\$43,356	\$43,365
I. G. Seibert.....	115.279	44,325	44,325
John Cox.....	129.154	53,940	53,940
McFaddin & Miles.....	132.900	52,154	52,154
McGowen & Butler.....	160,700	57,000	57,000
Jacob Host.....	175,000	75,000	75,000
Chas. Murphy.....	195,000	76,500	74,000
J. Cochrane.....	215,747	81,000	79,847

The architects have also submitted a detailed estimate of the entire cost of the building when completed, if done according to the original design, and also the estimated cost of the extras suggested, based, as they say, on proposals already submitted. Of the correctness of the said estimate your committee are not sufficiently informed to judge with that accuracy that they would wish; but, from the evidence in our possession, we are inclined to believe that they are sufficiently low. A copy of said estimates are herewith submitted, together with a statement of the estimated cost of the improvements suggested:

DETAILED ESTIMATE OF COST OF THE NAPA STATE ASYLUM FOR THE INSANE.

Estimated cost of building as originally contemplated.

Cost of foundation and basement story complete	\$80,000 00	
Mr. Ewing's estimate for laying nine million bricks, at \$8 25	74,250 00	
Cox & Colby's contract for making nine million brick.....	88,875 00	
Seven thousand barrels of lime, at \$1 85 per barrel	12,950 00	
Seven thousand barrels of cement, at \$3 30 per barrel.....	23,100 00	\$279,175 00
Cast and wrought iron work	25,000 00	
Plumbing and gasfitter's work.....	30,000 00	
Plastering	25,000 00	
Painting and glazing	25,000 00	
Hoists	5,000 00	
Slating and tinsmith work.....	32,000 00	142,000 00
Drains	7,000 00	
Locks	4,000 00	
Flooring, at \$40 per M.....	10,000 00	
Granite steps for outside doors	6,000 00	
Artificial stone steps.....	6,547 00	
Artificial stone tiling.....	4,000 00	
		37,547 00
Carpenter's work and material.....		121,278 00
Heating same, as in Stockton.....		20,000 00
Total.....		\$600,000 00

DETAILED STATEMENT OF DIFFERENCE IN COST OF THE NAPA STATE ASYLUM
FOR THE INSANE,

*Arising from the employment in the works of better material, and from
other improvements under consideration by the Board of Directors.*

<i>Section No. 1.</i>		
Main sewer, cost of excavation and brick-work, 800 feet in length.....	\$3,925 00	
Extra cost of manufacture and laying 450,000 pressed brick, at \$36 75.....	16,537 50	
Eighty-one thousand eight hundred and twelve pounds patent earthquake iron bond.....	6,825 00	
Extra cost of increasing thickness of corridor and other walls, 500,000 brick, at \$23 35 per M.....	11,625 00	
Stonework, as per Ewing's tender.....	42,275 00	
Setting stone.....	8,450 00	
Scaffolding for pressed brick.....	2,000 00	
Castiron nuts.....	450 00	
Galvanized iron cornice, 2,510 feet, at \$4 per foot.....	10,000 00	
		\$102,087 50
Steam seasoning.....	6,000 00	
Kiln-drying.....	700 00	
Ash flooring, extra cost of 104,000 feet at \$60 per M.....	6,240 00	
Extra cost of laying flooring.....	500 00	
Extra cedar finish.....	7,000 00	
Extra cost of brass gauze, 586 windows, at \$4 50 each.....	2,637 00	
Extra iron bond in foundations.....	4,200 00	
Granite water table and window sills.....	4,500 00	
		31,777 00
		\$133,864 50
Deduct for artificial stone steps, calculated in original estimate in Section No. 1.....		3,547 00
Total extra cost of Section No. 1.....		\$130,317 50

DETAILED STATISTICS—Continued.

<i>Sections Nos. 2 and 3.</i>		
Extra cost of 250,000 pressed brick.....	\$9,187 50	
Increase in thickness of walls, 400,000 brick	8,300 00	
Patent earthquake iron bond, 39,673 pounds, at 8 cents.....	3,173 84	
Galvanized iron cornice, 1,340 feet, at \$4 per foot.....	5,360 00	
Stone.....	8,116 00	
Setting stone.....	2,175 00	
Scaffolding for pressed brick.....	1,370 00	
Castiron nuts.....	400 00	
Steam seasoning.....	3,500 00	
Kiln-drying.....	400 00	
Ash flooring, extra cost, 420,000 feet, at \$60	2,520 00	
Extra cost of laying.....	200 00	
Extra on cedar finish.....	4,000 00	
Iron bond built in foundation.....	2,500 00	
Granite water tables and window sills.....	2,750 00	
Extra cost of gauze in 372 windows, at \$4 50 each.....	1,674 00	
		\$13,644 00
Extra cost of Section No. 2.....	\$55 626 34	
Extra cost of Section No. 3.....	55,626 34	
Total extra cost of Sections Nos. 2 and 3....		\$111,252 68
Deduct for artificial stone steps calculated in original estimate in Sections Nos. 2 and 3.....		3,000 00
Total extra cost in Sections Nos. 2 and 3....		\$108,252 68

The propriety of adopting most of these improvements, at this time, your committee seriously question. The people are clamorous for retrenchment and reform, and, while under other circumstances, we might be inclined to favor most of them, we believe it to be imprudent to adopt them now. The pressed brick, the exterior stone work on front, the galvanized iron cornice, the ash flooring, which will, in the aggregate, amount to about one hundred and fifty thousand dollars, may well be omitted. Selected Puget Sound flooring has answered the purpose in other public buildings, why not in this? The earthquake bonding, which at the best is but an experiment, might be omitted, and a saving of over thirteen thousand dollars effected. The increase in the thickness of the corridor, and other interior walls, and the wire gauze in windows, are items demanded for the safety of the building and comfort of the inmates. Perhaps, too, the cedar finish might be a cheap improvement, when the difference is considered between that and red-wood in point of solidity and durability.

When the fact is taken into consideration that the estimates do not include the cost and expenses of the Directors, the percentage of the architect, nor any of those incidental expenses which are always incurred in the erection of such buildings, it may safely be concluded that the cost of its erection, over and above the estimates, will amount to at least one hundred thousand dollars.

Your committee are informed that the amount realized, and to be realized under the appropriation included in the Act of eighteen hundred and seventy-one and eighteen hundred and seventy-two, before referred to, will not exceed two hundred and thirteen thousand dollars, and we are, therefore, of the opinion, that it will require at least from five hundred thousand dollars to six hundred thousand dollars, in addition to the amount already appropriated, to finish the building in the style originally intended, adding only such extra works herein mentioned as being necessary, and inclose the grounds around the same in a sufficiently substantial manner.

Your committee made a close and scrutinizing examination of the work already done upon said building, including the materials used therein, and find everything, as far as it has advanced, to be of the best quality. The brick, which are made upon the grounds, cannot, in our opinion, be excelled in any part of the State. An abundant supply of the purest water, the source of which is owned by the State, has already been brought upon the grounds. The location is one of the finest that could have been selected, and the choice reflects credit upon the judgment and taste of its locators.

The books and accounts of the Board of Directors appear to be in perfect order, and everything betokens the watchfulness and care of the officers and members, who seem to be honestly and zealously endeavoring to carry on the work entrusted to them with the strictest economy. If they should fail to obtain for the State the greatest amount of accommodation possible for the money expended, we may well attribute it to their lack of knowledge of the building business, rather than to their inattention or neglect. Their zeal to economize has led them, in the opinion of your committee, into the commission of one very grave error, which we feel in duty bound to report to this House. In direct violation of section three thousand two hundred and thirty-two of the Political Code, they have contracted with John Cochrane to erect the foundation of said building, and have advertised for and accepted the proposals of E. L. Mayberry and Robert Ewing to complete the superstructure. They have done this knowingly, their attention having been called to this section by the Governor, as well as by private individuals. They excuse their action in this regard upon the plea that this violation of the law was in the interest of the State. This plea, if admitted, amounts to the endowment of this Board of Directors, not only with executive, but with legislative and judicial powers. If admitted in this case, where is it to stop? Have not all other Boards, Commissions, and State officers the right to benefit by the same plea, when in any case they choose to violate not only this but any other law of this State. This doctrine once admitted, what protection have the people against the acts of bad or designing men, if even the best citizens can, unchecked and unchallenged, assume the right to exercise all the functions of the executive, legislative, and judicial powers of the Government?

Your committee cannot close this report without urging upon the

attention of this House the pressing necessity which exists for the immediate completion of one section of this building, together with the out-buildings, etc., necessary for the accommodation of at least two hundred patients. The overcrowded state of the asylum at Stockton demands that this be accomplished at as early a day as possible, and your committee would recommend such legislation as will compel this to be done on or before the first day of November next, under penalty.

S. K. WELCH,
Chairman of Committee.

REPORT

OF

Assembly State Hospital Committee

ON

STOCKTON INSANE ASYLUM.

T. A. SPRINGER.....STATE PRINTER.

REPORT.

MR. SPEAKER: The Assembly Committee on State Hospitals beg leave to report that on January tenth, eighteen hundred and seventy-four, in accordance with the duties imposed upon them by law, they visited the Insane Asylum at Stockton.

The investigation made by the committee was thorough and of such a nature as to insure that no portion of the workings of the institution was neglected.

Devoting three days to the visit it may be proper to classify the inspection as made: The first day the committee noticed the condition of the occupants of the asylum. The female department, with three hundred and forty (340) patients confined therein, presented a model of neatness. Cleanliness in every portion of the building satisfied the committee that proper sanitary means had been taken. The various symptoms of insanity, as exhibited, would naturally lead persons to believe that cleanliness was impossible, but after a thorough investigation, and after conversation with those of the insane who have lucid moments, your committee cannot but state that, for an institution containing so many inmates, its superior in management cannot be found.

The cases of insanity in the female department are of such a pitiable nature as to appeal to the sympathies of every one who visit it; but in comparison with the male department no adequate words can be used. The latter is crowded to repletion. Men in all stages of brain disease, assembled together with but accommodations for about one half of the number now confined, presents (particularly at night-time) a scene that no pen can portray, and no tongue, however eloquent, can describe.

In the male department there are now confined eight hundred and forty-eight (848) patients, who in the day-time are allowed to roam the yards connected with the various buildings, but at night the officials are compelled, in providing sleeping accommodations, to place beds for about three hundred (300) in the various corridors. Naturally insane persons (particularly incurables) are more or less filthier in their habits, in comparison with those who are possessed of their senses, consequently more space and ventilation is required for them. In this particular case it is reversed, not from any fault of the management, but from the lack of room and the rapidly increasing number of patients.

In this connection we submit a letter received since our inspection of the asylum from the Superintendent, Doctor G. A. Shurtleff. It reads as follows:

INSANE ASYLUM, STOCKTON, February 8th, 1874.

Committee on State Hospitals:

GENTLEMEN: The estimate for support is based upon a cost of about fifty (50) cents per day for each patient. The number in the asylum on the first of February was one thousand one hundred and eighty-eight patients, thirty-nine having been received and twenty-nine discharged by recovery and death last month. Unless provision be made for the completion of a section of the Napa Asylum in six or eight months, we should have authority not to admit male patients any further than room is made for them by the discharges and deaths. We now have eight hundred and forty-eight males, and we may *pack* in some thirty more in the attic of the laundry building. Even under the temporary pressure which must exist until provision is made elsewhere, the number here should not be allowed to extend beyond one thousand two hundred and twenty-five, including both sexes.

(Signed:)

G. A. SHURTLEFF.

That immediate necessity exists for relief from the overcrowded condition of the asylum, no member of the committee doubts. The proper remedy to apply has met with our serious consideration. In a conversation with the Chairman of the Building Committee, who investigated the affairs of the Branch Asylum, now under course of construction at Napa City, it was learned that the appropriation made during the last session of the Legislature had been expended in building a foundation for a large structure. At the time the law was passed a strict provision was inserted compelling the Directors to use the amount appropriated so as to relieve the pressing necessities of the asylum at Stockton, for more room, by the erection of one wing. It is now ascertained that those having the construction in charge ask for additional aid, financially, and state that it will require one (1) year more to comply with the law by erecting one wing.

That portion of the law we now quote, and leave to the members of the Assembly to form their own opinions as to whether the Directors have complied with it or not, viz: section seven, page six hundred and seventy-three, Statutes of California, eighteen hundred and seventy-one and eighteen hundred and seventy-two:

SEC. 7. The Directors shall procure and adopt plans, drawings, and specifications for the construction of asylum and other buildings, and the improvements of the grounds, and shall make provisions for the erection of the buildings, and cause the same to be carried out in accordance with such plans and specifications and on such terms as they may deem proper; *provided*, such plans, drawings, specifications, provisions, and the terms thereof, shall be submitted to the Governor, G. A. Shurtleff, and E. T. Wilkins, jointly, whom the Directors shall consult and advise with, prior to the final adoption of any plans for such building; *and further provided*, that the Directors shall not adopt any plans for the asylum or other buildings that will not secure the building and finishing of at least one section thereof suitable for the accommodation and treatment of patients, with the appropriation named in this Act.

The Legislature, in their generosity, two years ago, appropriated one hundred and thirteen thousand (\$113,000) dollars for the purpose of increasing the accommodations for female patients at Stockton. The construction of the building was intrusted to the Board of Directors, the majority of whom reside at Stockton. After deliberation, the Board of Directors decided to let by contract the entire construction of the wing, and, as has been since ascertained, to the entire benefit of the State, financially and otherwise. The entire cost of constructing the building, as per contract, was seventy-six thousand six hundred and eighty-five dollars, leaving a balance of thirty-six thousand three hundred and fifteen dollars—less one thousand five hundred dollars due for Superintendent's salary—to be applied to furnishing the same, which will leave a surplus, after the purchase of necessary furniture, of about ten thousand (\$10,000) dollars. Such a fact in reference to the erection of a State institution has not been known in the annals of the State of California.

In connection therewith the committee respectfully transmit a description of the building as an accompanying document, marked "A."

The Directors desire to use the amount in excess—about ten thousand (\$10,000) dollars—in making needed improvements on the grounds adjacent to the new building, and request that the Legislature grant them the use of the amount for that purpose, to be transferred from the Building Fund. The committee cheerfully recommend that a law be enacted transferring the surplus to the Directors, as from their action in the construction of the building no doubt exists that the Fund will be properly used.

The following statement, signed by E. Moore, President of the Board of Directors, and Dr. G. A. Shurtleff, Superintendent, will explain the necessities of the institution:

WANTS OF THE INSANE ASYLUM, AT STOCKTON, FOR THE TWENTY-SIXTH AND TWENTY-SEVENTH FISCAL YEARS.

First—For support of the institution at the rate of about fifty cents per patient, estimating on the number now in the asylum, four hundred and thirty thousand dollars. There has been an increase of patients this month, making the present number one thousand one hundred and eighty-five. The average increase is about fifty patients annually. The last year's report embraced nine (9) months only. There will be in the asylum one thousand two hundred or more patients by the first of July, the commencement of the twenty-sixth fiscal year.

Second—For the purchase of a cemetery for the exclusive use of the patients of the asylum, off, but near the asylum grounds, fifteen (15) acres, at two hundred and twenty-five dollars per acre, three thousand three hundred and seventy-five dollars.

Third—Repeal of the law requiring insane convicts to be sent to the asylum from the State Prison.

Fourth—Authorizing the Directors to expend any residue of the appropriation for building the north wing of the female asylum building, after the same is fully completed and furnished, in improving and ornamenting the grounds opposite said wing to correspond with the surroundings of the south wing; in painting the south wing and center building; inclosing the two courts in the rear; and other improvements upon and in connection with said building, as the Superintendent may

approve and recommend. It will be perceived that this involves no new appropriation.

Fifth—If not relieved by the Napa Asylum, during the coming Summer, further provision must be made here for the accommodation of the male patients, or the Superintendent must be authorized not to receive male patients only as room is made by discharges and deaths, after the number in the asylum reaches one thousand two hundred and fifteen patients.

(Signed:)

E. MOORE, President of Board.

(Signed:)

G. A. SHURTLEFF, Superintendent.

The committee carefully observed the necessity for the recommendation of the gentlemen named regarding the separation of insane criminals from those not criminals. A majority of those now confined at the Stockton Asylum have sane moments, and when in that condition object strenuously to be the associates of criminals. We recommend that proper provision be made at San Quentin for the confinement of insane criminals for the reason stated, and also for the reason that proper security cannot be thrown around those who feign insanity for the purpose of escaping the effects of the law they have violated.

In reference to the appropriation for a cemetery, your committee respectfully request that the amount asked for, three thousand three hundred and seventy-five dollars, be allowed, and to show the necessity for the same quote from the Superintendent's report, as follows:

"The liberality with which the last Legislature responded to our calls has nearly saved us the necessity of asking for further special appropriations. One more want, however, is urgent. We have no place to bury the dead. The small inclosure for that purpose, unfortunately situated in the center of the grounds, is filled, and its use cannot possibly be continued more than a few months longer. I would, therefore, suggest that the authority and an appropriation be asked for of the Legislature to purchase ground for a suitable cemetery for the exclusive use of the asylum, provided a conditional bargain for the same be first made at a satisfactory price. It should be situated off of the present asylum grounds, but so near thereto as not to involve an undue expenditure of time and labor in the conveyance and burial of the dead. It would be most prudent to secure not less than ten acres, for it will be needed for a period to which we can place no limit; and, for a long time to come, the number of deaths cannot be expected to fall below one hundred annually, the average number for the last five years being one hundred and seventy-three a year."

The amount asked for—four hundred and thirty thousand dollars—for maintenance, we cheerfully recommend, as no charity as that of granting State aid to the unfortunates under charge at the Stockton Asylum does so readily appeal to the benevolence of all. Males and females of all conditions and ages in life are there incarcerated, not only for their own benefit, but for the security of the lives and property of the citizens of this State.

The following table will show the number confined January thirty-first, eighteen hundred and seventy-four. The total is alarming, particularly as stated above, that the calculated room is but for about one half the number:

	Males.	Females.	Total.
Number confined December 31st, 1873.....	841	337	1,178
Number admitted during January.....	31	7	38
Escapes returned.....	1	.....	1
	873	344	1,217
Number discharged.....	15	2	17
Number died.....	10	2	12
	25	4	29
Number in Asylum January 31st, 1874.....	848	340	1,188

The comfort and classification of the patients were also considered. In the first case, those who are able to walk are compelled, from the crowded condition of the institution, to seek the yards during the day. In one yard, where, perhaps, three hundred each day gather, a slightly constructed shed has been erected for temporary shelter, with but one stove to warm the crowd that surround it. The committee recommend that some action be taken whereby proper accommodation will be furnished in the yards connected with the asylum buildings for those patients who are able to leave the wards during daylight.

In reference to the classification of the patients, your committee would recommend that a law be enacted classifying the degrees of insanity from "temporary," "mild," "imbecile," "dangerous," and that each class be placed in separate buildings.

The committee take great pleasure in making the statement that in Dr. Shurtleff, as Superintendent, and Drs. I. S. Titus and W. S. Langdon, as Assistant Physicians, the State of California has been fortunate in obtaining such thoroughly competent and intelligent gentlemen. The crowded condition of the asylum, of course, prevents those in charge from preventing some few irregularities, but they are of such slight nature as to prove to even the casual visitor that they are caused by not having proper accommodations for the number confined.

The books of the Directors were examined, and found to be kept in a business manner and with neatness. Too much credit cannot be given to the gentlemen who, as Directors, take charge of this great and growing State charity.

In conclusion, we again earnestly appeal for speedy action by the Legislature in regard to the fearfully crowded condition of the male department. Immediate relief should be given, otherwise untold suffering will be the lot of a number of the unfortunates.

"A."

Description of the new or north wing of the building occupied by the females at the Insane Asylum at Stockton:

This wing corresponds with the south wing, and, when finished, completes the entire building according to the original plan. It is composed of four sections, which, for convenience and accuracy, are described separately.

The first section, commencing at its junction with the center building and extending north, is one hundred and eleven feet long by thirty-seven feet wide, and is three stories high.

The second section is four stories high, continuing north from the first section forty-two feet by thirty-three feet in width.

The third section is three stories high, and ninety-one and a half feet long by thirty seven feet wide, extending east at right angles with the first and second sections.

The fourth section is four stories high, continuing east from the third section thirty-five feet by sixty-two feet in length north and south. Taken together, there is a west frontage of one hundred and thirty-five feet, and a north frontage of one hundred and fifty-nine and a half feet.

All of the north and west sides are covered with one coat of Rosedale cement and sand.

The height of each story is twelve feet in the clear, for three stories. The fourth story is eleven feet. The basement story is eight feet in the clear.

The outside walls are seventeen and a half inches thick from foundation to top of second floor, then reducing to thirteen inches to top of third floor, in the three-story part, and to top of fourth floor, in the four-story part, then reducing to eight and a half inches from top of floor to top of wall.

The partition walls are brick, and carried from foundation, at the bottom of basement, to top of attic floors.

Ventilating flues are carried up from all the rooms to the attic, there connecting with the patent revolving ventilators in the roof.

The roof is covered with number twenty-six galvanized iron, laid with standing grooves, with cornice of the same kind of iron.

There are two iron water tanks, containing forty-five hundred gallons, and one containing three thousand gallons. All are located in the attic of the three-story part of the building. The water is distributed from the tanks by iron pipes to all parts of the building.

There are three bath tubs in each story, of cast iron, supplied with both hot and cold water; also, water-closets in each story. The hot water is supplied from boilers in the basement, heated by steam. The building is heated by steam passing through coils of iron pipe located in the brick, in chambers, in the basement of the building, the air passing through flues in the walls to the different rooms.

There are two stairways in the building, one at the east and one at the west end, extending from basement to attic.

Two hundred and sixteen doors in the building, 2x8, 7x1 $\frac{1}{4}$.

The superstructure contains two hundred and twenty-nine windows of twenty-four lights, 6x12, glazed with twenty-six crystal sheet glass. All the windows are secured by cast iron guard sash, the full size of the windows, secured to the window frame on the outside. There are fifty windows in the basement, of small size.

The railroad, for distributing the food to the various wards, is located in the basement.

Each of the three stories contains forty-eight rooms, exclusive of the corridors, stairways, and closets. The fourth story contains

twelve rooms, making a total of one hundred and fifty-six rooms, exclusive of stairways, corridors, and closets.

To render the plastering less easily broken, the walls are plastered directly on the brick without furring. The ceilings are furred twelve inches from centers, and lathed with fine laths one and one quarter inches wide by three eighths of an inch thick, and all walls plastered down to the floor. The floors are laid two thicknesses. The first, or under floor, is laid of inch redwood as soon as the floor joist are set. The top floor is not laid until the plastering is finished and doors hung, thus leaving the floors clean and smooth at the completion of the work.

The cost of this building, when finished, will be seventy-six thousand six hundred and eighty-five dollars, exclusive of about fifteen hundred dollars to be paid the superintendent of its construction, at the rate of six dollars per day from some time in the month of June, eighteen hundred and seventy-three, to some time in April, eighteen hundred and seventy-four. No extra work will be ordered or allowed, and no expense whatever will be incurred or needed in completing the building, beyond the sum agreed upon at the commencement. The work is being done by contract, under the construction of "an Act to regulate the erection of public buildings," approved April first, eighteen hundred and seventy-two.

When completed, it will have to be furnished, and the grounds around it will require to be improved and ornamented to correspond with the improvements around the south wing. But the appropriation of the last Legislature for the construction and furnishing of this building will be ample to do all this.

STATEMENT OF THE PROGRESS
OF THE
STATE GEOLOGICAL SURVEY
DURING
THE YEARS 1872-73.

T. A. SPRINGER.....STATE PRINTER.

SAN FRANCISCO, November 8th, 1873.

To His Excellency,
NEWTON BOOTH,
Governor of California:

SIR: I beg leave to lay before you my "Statement of progress of the State Geological Survey during the years eighteen hundred and seventy-two and eighteen hundred and seventy-three."

Respectfully,
Your obedient servant,

J. D. WHITNEY,
State Geologist.



STATEMENT.

The geological survey of California was begun in eighteen hundred and sixty. What had been done up to the time of the meeting of the last Legislature, can be ascertained by examining the statements which have been regularly transmitted to the Executive at the beginning of each session, and from an inspection of the volumes and parts of volumes and the engraved maps which have been issued from the survey office. I have now to state the condition of the work at the present time, and to set forth the progress which has been made since November, eighteen hundred and seventy-one, the date of my last communication to your predecessor in the gubernatorial chair.

TOPOGRAPHICAL WORK, AND PROGRESS IN THE PUBLICATION OF THE MAPS.

The completion of the "Map of Central California," which is on a scale of six miles to the inch, and is embraced in four sheets, was the first thing to engage our attention. The southwest quarter having been already finished, and the southeast sheet being in the engraver's hands, the completion of the northeast quarter was next in order. This sheet was already nearly all drawn in the Spring of eighteen hundred and seventy-one; but there remained an area of a few hundred square miles about the heads of the Walker and Carson Rivers which had not been mapped, as well as a narrow strip in Calaveras and Alpine Counties, which needed a more detailed examination than we had, up to that time, been able to make, before the sheets in question could be completed. In order that this work should be delayed as little as possible, it was necessary to begin it early in the season, and before any of the more northern passes of the Sierra could be crossed by teams. I therefore determined to cross by Walker's Pass, and proceed up Owen's Valley, a route which would afford an opportunity of gathering some facts in regard to the great earthquake of the previous March, which shook a large part of California and Nevada, and was particularly severe at the eastern base of the Sierra in Inyo County. The work was considerably delayed by the unprecedentedly high stage of water in the rivers at that time, and by the accumulation of snow in the mountains, which made it impossible to cross the Sierra by the Silver Mountain road until after the middle of July. The necessary surveys for the completion of the two sheets were, however, carried through by Mr. H. Craven, before the end of that month, and I was myself with the party for about six weeks.

As soon as these surveys had been plotted, the drawings of the north-east sheet, as well as of the strip wanting to complete the southeast one, were taken in hand by Mr. Hoffman, so that no delay occurred in the engraving. The second sheet of the map was finished in the course of the Summer of eighteen hundred and seventy-three, and the third sheet is now in the engraver's hands, and, as is expected, will be finished by the end of January next—about a year being required for the engraving of each sheet. The two sheets comprising the southern half of the map are, therefore, now on sale, and the third sheet will be ready in about three months.

The line work of the fourth sheet is also engraved, so far as the same has been drawn. As mentioned in my last statement, there still remains one Summer's work in the field to be done before this sheet can be completed. The region north of Clear Lake has not yet been surveyed, and a portion of Tehama County is still to be mapped. The engraving of this sheet can, however, be proceeded with as soon as the northeast quarter is done; and if we can take the field early in the Spring, there need be no delay in going on with the engraving, so that the whole of the map may be finished by a year from next February.

Thus a great work will have been brought to completion; a work on which we have been engaged since eighteen hundred and sixty-two, and on which no small amount of labor has been expended, involving, as it does, the exploration and mapping of the whole range of the Sierra Nevada, from the parallel of $36^{\circ} 20'$ to that of $39^{\circ} 30'$, a distance of three hundred and sixty miles, measured in a straight line along the axis of the chain, and including an area of over twenty-five thousand square miles. To this must be added at least seventeen thousand square miles of the Coast Range Mountains, included within the limits of the map, or forty-two thousand square miles in all. No portion of which had, previous to our labors, been mapped with any approach to accuracy. The central map includes also a large area east of the Sierra—lying partly in California and partly in Nevada—as well as the whole of the Sacramento, San Joaquin, and Tulare Valleys between Visalia and Shasta City. For that part of Nevada which lies near the Central Pacific Railroad, with a breadth of about one hundred miles, we are indebted to the Fortieth Parallel Survey, under the direction of Clarence King, and which was furnished, in advance of publication, through the kindness of Gen. A. A. Humphreys, Chief of the United States Engineer Bureau.

The central California map does not, however, include all of the topographical work which has been done by the geological survey; and for the purpose of getting some of this other work into an available form, and placing it on record, so that it might be conveniently resumed and completed at some future time, in case it should be desired, I have caused Mr. Hoffman to project and complete, as far as our material would allow, another map on the same scale as the central (six miles to the inch), and adjoining it on the south. This map extends across the whole breadth of the State to the eastern edge of the Sierra, in longitude $117^{\circ} 50'$, and reaches as far south as the mouth of the Santa Ana River. It embraces a considerable amount of work done in the Coast Ranges, at various times, by Mr. Hoffman, and also the results of the valuable explorations made for the Southern Pacific Railroad Company by Butler Ives. It is, however, especially important as containing the laborious and valuable surveys made by Mr. D'Heureuse, from eighteen hundred and sixty-five to eighteen hundred and sixty-seven, for the

geological survey, and which comprise nearly the whole of the Sierra from the parallel drawn, touching the lower end of Owen's Lake, to the Tahichipi Pass. Thus we have surveyed and drawn, ready for publication, the whole of the chain of the Sierra from Tahichipi Pass to Lassen's Peak. There is still a large amount of work to be done in Santa Barbara and Ventura Counties to complete this map; but the sheet can be photographed, or perhaps photo-lithographed, and thus be made available to some extent for use; or, at all events, be secured from destruction by fire or other accidents.

The "Map of the Vicinity of the Bay of San Francisco," has been carefully corrected, numerous changes in the municipal, township, and ranch boundaries made, and the railroad lines altered to conform to their present location, bringing the work up to eighteen hundred and seventy-three, and greatly improving it, although not without considerable labor and expense.

The State map, on a scale of eighteen miles to an inch, has been completed, having had such changes and additions made as were necessary to bring it up to the present date. The whole of Nevada has been added to it, as otherwise the map would hardly have been saleable, a condition of things due partly to the peculiar shape of California, which makes it necessary to have Nevada on the same sheet or else to leave the space blank which that State would occupy; and partly, also, to the fact that these two States are so intimately connected in their commercial and mining interests. The map in question is printed in colors, and has the relief of the surface indicated by crayon-work lithography, so that the topographical features are presented to the eye in a very effective manner, although not in minute detail, the scale being too small to admit of this being done. In compiling the Nevada portion of the map, we have used all the best accessible materials, for which credit is given on the work itself; and we have been able to give, for the first time, a tolerably correct idea of the peculiar features of the topography of that State which offer so striking a contrast to those of California. Copies of this work have already arrived at the office of the Survey, and before the meeting of the Legislature the map will be accessible to all. The novelty and beauty of the "Map of California and Nevada" have been remarked by those who have had an opportunity of inspecting it, and it may be confidently affirmed that it will be of great value to the schools of the State, and it is believed that it will be found generally acceptable to the public.

A smaller map of California, on a scale of thirty-six miles to an inch, has also been engraved, without hill shading. This map is intended as a base-chart for representing certain geological facts, but it may be found desirable that it should also be issued as an independent geographical map, as being convenient to carry in the pocket, and cheap.

GEOLOGICAL WORK AND PROGRESS IN THE PUBLICATION OF THE GEOLOGICAL MAPS.

For want of means but little has been accomplished during the past two years in the way of new geological work, as I feel sorry to state. In what has been done in this department since my last statement, two objects have been principally kept in view. One was the coloring of the geological map of the whole State; the other, the completion of a geological map of a portion of the mining region, on as large a scale as our means would admit of our doing.

In my last statement I spoke of a map of the principal mining counties along the western slope of the Sierra, on a scale of two miles to an inch, and which I hoped to be able to complete, "if the pecuniary means were forthcoming." Those means were not forthcoming, and the map has not been completed. Had the entire appropriation for the continuance of the survey, made by the last Legislature, been applied to this one object, it would not have sufficed. The plan adopted, therefore, in view of the inefficiency of our means, was to complete a portion of the area only, and to select that which seemed of special importance, and most desirable to have mapped on a large scale. I have, accordingly, had a map made of the region embracing the most important hydraulic mines of the State, or the deep gravel deposits of Tertiary age, which form such an interesting and important feature of a part of the western slope of the Sierra. This map, which is about three feet square, is on a large scale—namely, one mile to the inch. On it are represented, by colors, the extent of the auriferous gravel deposits, commonly called "high gravels" or "deep gravels," and also of the accompanying volcanic masses or overflows. Besides this there is given the position of the various quartz and gravel mining claims which have been patented, or officially surveyed for the purpose of securing a patent under the United States laws. Besides this and the usual geographical information, the lines of the ditches are laid down over a considerable portion of the area mapped. This map was drawn by Messrs. Hoffman and Craven, from the surveys of Messrs. Bowman, Pettee, and Good-year, together with such information as could be obtained from the various gravel mining and ditch companies in the region. A large amount of valuable topographical material was also obtained from the Central Pacific Railroad Company, which has caused detailed surveys to be made along its line on the western slope of the Sierra.

This map is now in the engraver's hands, and will be completed, it is expected, within two or three months. Some smaller diagrams, also printed in colors, have been finished and engraved, showing the distribution of the gravel and volcanic formations in localities not embraced on the large map, and others are in preparation.

In my last statement I mentioned the investigations which had been commenced by the survey, having for their purpose the more precise determination of the limits of error of the barometer as a hypsometrical instrument. These investigations were undertaken, at first, with special reference to our work in the gravel regions, where a knowledge of the relative altitudes of different localities, is of great importance; hence, a notice of the progress made in this direction, may properly be inserted here.

The barometrical observations in question were regularly made, three times a day, at each of the three stations selected, namely: Sacramento, Colfax, and Summit, and they were continued until the full period of three years had been completed. The series closed in September of the present year, and the computations are now nearly finished, and the results will soon be all in type. Professor Pettee has had charge of this work, under my direction, and the amount of labor involved in it has been very considerable. The tables we shall furnish will, I think, not only be of value to us in working up our own barometrical observations, but will also be of interest and importance to others who have occasion to use this instrument for the determination of heights, on this coast and elsewhere.

It is much to be desired that all our observations with the barometer

should be carefully worked over, and the results published in a form convenient for reference. A map of the State should also be prepared, on which the relative height of different regions should be shown by different tints of color, so that the eye might be able to take them in at a glance.

Of geological work done with special reference to the publication of a general geological map of the State, and also of special maps, on a larger scale, of particular districts, a brief statement may now be given.

In the Spring of eighteen hundred and seventy-two Messrs. Goodyear and Cooper took the field at San Diego, for the purpose of making a reconnoissance from that point northward to Los Angeles, this being a region in which hardly anything had, up to that time, been done by the Survey. Between two and three months were spent in this work, during which valuable materials were collected, both in geography and geology.

During the Spring of eighteen hundred and seventy-three Dr. Cooper was employed in examining the northern part of the San Francisco peninsula, taking up the work commenced some years ago by Mr. Rémond and myself. The Superintendent of the United States Coast Survey having kindly allowed us the use of their engraved plate of this region, I have had a transfer made, and the geology printed in colors upon it with that minuteness of detail which the large scale of the map ($\frac{1}{400000}$, or about one and a half inches to the mile,) allowed to be done. The sheet is now nearly finished, having been placed in the engraver's hands some months ago. It will probably be ready before the end of the year.

Dr. Cooper has also been employed for some time in working up the details of the geology of the region covered by the "Map of the Region adjacent to the Bay of San Francisco," which I have colored geologically from his notes and specimens, and from the other material which has been collected by the Survey since the beginning of our work. I am desirous that this map should be published; but have not felt justified, in view of the scantiness of our means, in handing it over to the lithographer. It is intended, however, that this map, colored geologically, shall form a part of the atlas accompanying the report.

A geological map of the whole State has also been colored, and this it is proposed to have published, as soon as the region north of Clear Lake, which was referred to in connection with the central map, shall have been worked up. For this geological map it is proposed to use the line work of the "State map," already noticed, which will enable us to give a general idea of the character of the geological formations, supplemented, of course, by the special and more detailed maps already mentioned.

For the purpose of obtaining material to be used in the preparation of a new edition of the "Yosemite Guide Book," a short trip was made by Messrs. Hoffman, Craven, and myself, to the High Sierra, in Mariposa and Tuolumne Counties, during the past Summer. In the course of this excursion, the cañon of the Tuolumne River was explored, from its head down to some distance below the Hetch-Hetchy Valley, and additional details and corrections obtained for the northern part of the "Map of the Sierra Nevada, adjacent to the Yosemite Valley." This map, as originally prepared by Mr. Gardner, was left unfinished, from want of time, in the region north of the divide between the Merced and

Tuolumne Rivers. By the aid of the work of the past Summer, together with that of a previous year, the northern portion of the map in question can now be filled in with the same fullness of detail as the remainder of it; and this is quite desirable, since the Cañon of the Tuolumne, and especially the Hetch-Hetchy Valley, have begun to attract tourists.

It would be very convenient for travelers if a horse trail could be opened through the whole length of the cañon, so that the round trip could be made up the Merced, through the Yosemite, and down the Tuolumne to the Hetch-Hetchy, or vice versa; but although the upper and lower portions of the Tuolumne Cañon are easily accessible on horseback, it would not be possible to get animals through the whole length of it, without considerable expenditure of money. The scenery of this cañon, although fine, is by no means to be compared with that of the Yosemite. It lacks the towering vertical walls and magnificent waterfalls of that unique wonder of nature, and is of an entirely different type from it. The Tuolumne Cañon, however, if inferior by far to the Yosemite, is well worthy of a visit, were it only for its charming cascades, which form its principal attraction.

It is my wish, in preparing a new edition of the Yosemite Guide Book, to extend its scope somewhat, and to give more space to the description of other portions of the Sierra Nevada, making the work a kind of scientific guide to the whole chain. As the beauty and grandeur of the scenery of the great mountain range of California becomes more known, the number of pleasure travelers is rapidly increasing, and among these are not a few who desire to obtain some substantial information in regard to the places they visit—something more solid than can be got from the ordinary guide books, and works of travel, which are usually chiefly devoted to scraps of personal adventure. Everything which tends to attract intelligent men to the State, and retain them here, is of value, if only looked at from the pecuniary point of view. The constantly increasing demand for the Guide Book and the accompanying maps seems to me proof that the Legislature was wise in specially ordering the preparation of this work by the State Geologist. Having become the proprietor of the valley, it was reasonable that the State should furnish the public with trustworthy information concerning it.

PROGRESS IN THE NATURAL HISTORY WORK.

The botanical work of the Survey is now well advanced toward publication, the printing having already been commenced. The valuable services of Mr. S. E. Watson, late Botanist of the Fortieth Parallel Survey, have been secured; and he has been at work, in connection with Professor Brewer, since the beginning of the present year. Doctor Gray is also now giving a large portion of his time to the preparation of portions of our botanical material. The amount of labor which has been required in this department is extraordinarily great, for reasons which have already been set forth in my previous statements of progress; and the coöperation of the most eminent botanists of the country has been secured, in order that the work might be made as complete as possible. Whether the "Botany of California" will be comprised in one very thick volume, or two of moderate size, is not yet ascertained. If no unexpected delay occurs, the work will all be in type before the end of the next year.

The cutting on wood of the illustrations of the second volume of the

ornithology has been slowly going on since the date of my last statement. The portion of the ornithology which remains to be published comprises the water birds; and the illustrations, now almost finished, are remarkably fine, surpassing even those of the first volume in beauty. It is possible that two volumes, instead of one, will be required to complete the ornithological work. Professor Baird and Doctor T. M. Brewer have been for sometime engaged in the preparation of the text, and there is nothing to delay the speedy completion of the volume, or volumes, of the "Ornithology of California," except the lack of money.

The collections of fossil plants, made by the survey, have been placed in the hands of Mr. Lesguereux, as previously stated, for examination and description. To our own material, has been added a very valuable collection made by Mr. C. D. Voy, and kindly loaned to the Survey by that gentleman. This material, together with all the remainder of Mr. Voy's large collection of California shells, fossils, and minerals, has since been purchased by D. O. Mills, Esq., and by him presented to the State University. Mr. Lesguereux has worked up all these fossil plants, and has superintended the drawing of the necessary illustrative plates. As soon as these plates can be lithographed the work can go to press, and it will form the third volume of the palæontological series. The plants in question are chiefly from the detrital formations connected with the tertiary auriferous gravels, so extensively worked by the hydraulic process; and the conclusions which have been reached by Mr. Lesguereux, in his investigations, are of great interest in the light which they throw on the physical geography of the Sierra Nevada at the time when these gravels were accumulating.

In regard to the progress of the volumes of ichthyology and conchology, but little new can be reported. Additional materials have been collected, and a portion of the illustrations drawn, and some of the fishes engraved. It has been impossible, with the means at my command, to press forward the work on either of these volumes while so much remained to be done in the other departments.

A number of the illustrations of the volumes of geology have been cut on wood or lithographed, and the putting of this portion of our work in type ought to be commenced without delay. I only wait the favorable action of the Legislature to press the work on to completion, in the geological as well as all the other departments.

Owing to various circumstances, but especially to the fact that I have been unable to impress on succeeding Legislatures the desirability of making the appropriations for the survey sufficiently large to enable me to push the work vigorously, so that it might be completed within a reasonable time, I have determined to close my official connection with the State, as soon as the maps and volumes now in progress have been completed. Under no circumstances will it be possible for me to retain the position of State Geologist beyond the end of the next fiscal year, June thirtieth, eighteen hundred and seventy-five.

I trust, therefore, that the means will be furnished me, at an early period in the session, to push vigorously on that which has been begun, so that the six additional volumes, with the accompanying atlas of maps, sections, and other engraved illustrations, may be completed before the time specified. I am obliged to add, that, unless an additional appropriation is made before the end of January, most of the work now in progress will have to be stopped.

In preparation for closing the survey, I shall immediately begin packing up and delivering over to the University the collections now in my

charge, and I have already notified the President that such is my intention. The buildings and cases for the display of the survey collections will soon be ready, and the authorities of the University are desirous of being placed in possession of them.

As near as I can estimate, an amount of money not less than one hundred thousand dollars will be required to complete the work already commenced and in process of publication. This includes the completion of the Central California map, with an additional season's field-work for that purpose; the completion of the geological maps of the State, of the vicinity of the Bay of San Francisco, and of the most important mining districts. It also includes the publication of the following volumes:

Physical geography and central geology.....	1
Economical geology.....	1
Ornithology.....	1 or 2
Botany.....	1 or 2
Fossil plants.....	1
Total.....	5 or 7

Together with the folio atlas, making, with the four volumes of the regular series already published, nine to eleven volumes, according as the botany and the ornithology shall each be included in one very thick or two moderate-sized volumes. All these can be ready, if the money is provided early in the present session, and my health holds out, before June thirtieth, eighteen hundred and seventy-five.

Whatever sum, however, may be appropriated, if any, by the Legislature about to convene, if less than the amount specified above, will be expended in finishing such of the volumes or maps as are nearest completion, and when the amount has been expended, the work will be stopped, and the present incumbent will hand in his resignation, to take effect as soon as his accounts have been settled. On no pretense will he ask for another appropriation from the State. This only may be stated: That if the Legislature sees fit to continue the present arrangement, by which the amount received from the sale of the volumes of the Survey is allowed to be used for the publication of other volumes, it is highly probable that from the proceeds of the sales of what has already been finished, in eighteen hundred and seventy-five, the three other volumes which are needed to complete the series, and two of which are already begun, may be completed within the two years following. Our "Report of the Geological Survey of California" would then consist of from thirteen to fifteen volumes, with an atlas in folio, and would challenge comparison, for completeness and beauty, with anything which has ever been published in this line.

I will add that, in case this arrangement be sanctioned, I will cheerfully give my own time in supervising the publications thus contemplated, without any charge to the State.

J. D. WHITNEY.

SAN FRANCISCO, November 8th, 1873.

REPORT

OF

THE BOARD OF EXAMINERS

ON

CLAIMS NOT OTHERWISE PROVIDED FOR BY LAW.

T. A. SPRINGER.....STATE PRINTER.

REPORT.

OFFICE BOARD OF EXAMINERS,
SACRAMENTO, October 31st, 1873. }

To the Senate and Assembly of the State of California:

In accordance with the provisions of sections six hundred and sixty-four to six hundred and sixty-seven, Political Code, the following action was taken by the Board of Examiners, of unsettled claims against the State of California, not otherwise provided for by law, an abstract of which was published, as herein stated:

A. J. F. Phelan.—For services rendered in the City of Washington, as Clerk of the War Bond Commissioners—\$2,129 69.

This claim was passed upon and allowed by the Board of Examiners during the administration of Governor Stanford; the Legislature, however, refused to act upon the recommendation, and the relief bill of the claimant was withdrawn by the author, because of an adverse report from the Committee on Claims. The claim has now become an old one. There are no new facts presented for our consideration, but an examination of the papers leads us to believe that the claimant is entitled to some compensation, by reason of the facts therein set forth.

The claim having been rejected by one Legislature, we decline to recommend it to another upon the same evidence. We cannot report adversely to it for the reasons above stated. We therefore transmit the claim without recommendation.

D. O. Mills & Co.—Claim for payment of certificate number sixty-five, on State Treasurer, dated December thirty-first, eighteen hundred and sixty-one—\$8.

This is a claim for a balance of eight (8) dollars on a certificate of indebtedness, issued by the Loan Commissioners, under an Act of the Legislature, approved April nineteenth, eighteen hundred and fifty-six. Bonds were issued for amounts not less than five hundred (500) dollars; fractional portions were therefore unpaid. We recommend the payment of the claim.

John Breuner.—For use and repair of furniture for the Legislature of the nineteenth session—\$380.

This is a claim for rent of furniture at the inaugural ceremonies, and for repairing done for the Assembly of the nineteenth session. On examination of the claim, we are satisfied that the claimant is entitled to some recompense, but not at the figure designated by him. We recommend the payment of the claim in the sum of two hundred and fifty-four (254) dollars.

John Breuner.—For building a cabinet for State Library—\$7,874.

The Legislature of the last session, by an Act approved April first, eighteen hundred and seventy-two, purchased, for the sum of thirteen thousand (13,000) dollars, the cabinet of minerals, precious stones, etc., of Dr. J. M. Frey, and it was made the duty of the State Librarian to receive, arrange, and display the same.

The Legislature failing to make an appropriation to carry out its intentions, the Capitol Commissioners, in connection with the State Librarian, seeing the necessity of placing this rare and valuable collection to purposes of utility, and in accordance with the terms expressed by the statute, concluded to appropriate one of the rooms connected with the State Library for its permanent establishment. A contract was entered into with the claimant to build a cabinet case for the sum of five thousand eight hundred and forty-eight (5,848) dollars, and to await payment of the same until the meeting of the present Legislature. Some improvements and alterations were made during its construction, deviating from the original plan, and involving a little more cost than the price first agreed upon. We, therefore, recommend that the sum of six thousand three hundred and forty-eight (6,348) dollars be appropriated for its payment.

W. E. Brown, heir of E. L. Brown, deceased.—For rent of building and interest, used as a Court of First Instance, in the City of Sacramento, from January ninth, eighteen hundred and fifty, to April tenth, eighteen hundred and fifty—\$6,000.

This is a claim for rent of a building on J street, Sacramento, occupied by the Court of First Instance, "in the Fall of forty-nine and Spring of fifty." The amount asked for from the State is three months' rent at six hundred (\$600) dollars per month, and four thousand two hundred (\$4,200) dollars interest, making in all six thousand (\$6,000) dollars. At the time this indebtedness was incurred, the State of California was not in existence, and, as a matter of course, could not have contracted any obligation. The country was, at that time mentioned in claimant's petition, a part of the territory of the United States, and governed accordingly. If any indebtedness exists by reason of the facts set out in the petition, it is from the United States, and not from the State of California. There is nothing in this claim which would enable the claimant to recover anything from the State in an action against it, if the law authorizes such a proceeding, and the Board of Examiners do not consider that they have any right or power to recommend to the Legislature claims for payment that would, in effect, be donations out of the State Treasury. We find no merit in this demand, and recommend that it be not paid.

W. A. Anderson.—For moneys due to certain military companies—\$5,657.

In eighteen hundred and sixty-three, the Legislature authorized the payment of three hundred dollars annually * * * to each duly

uniformed company of sixty active members, and in the same proportion to all uniformed companies, the money to be receipted for by the captain or commanding officer. (Stats. of 1863, p. 445, Sec. 14.) This claim was rejected by the last Board of Examiners, and one reason assigned was that the statute called for an annual service of active, uniformed men, in order to entitle them to the benefits given. This law was passed to elevate the standard of the State militia, and not for any other or different purpose. It is an appropriation by the State from which it expects a return in the shape of uniformed and disciplined troops. It is folly to suppose that it was the intention of the law to pay at the rate of three hundred dollars per annum for a month's service, such as the militia perform. The intent of the law is evident from the word "annually," as used in the statute.

It is apparent that the law only contemplated assisting such uniformed companies as had complied with the law for a year. All of these claims, therefore, that ask for benefits for portions of a year are rejected.

There is another and fatal objection: The law authorizes the moneys to be receipted for by the captain or commanding officer of the company. The law delegates this power to him, but does not give him the right to delegate the power to receipt to any one else. The delegation of power to do a particular thing never carries with it the power to delegate another to act, without express provision to that effect. This applies, however, only to such captains and commanding officers as signed the powers of attorney upon which it is sought to collect these claims, while they were in the actual service of the State. Most of the letters of attorney offered here were executed by the officers long after they were mustered out of the service, as appears of record in the office of the Adjutant General, and from the dates of the said letters of attorney. After these officers were mustered out of the service, they were as much strangers to it as though they never had been in it—they had no power or authority of any kind or character to do any act or thing which appertained to the service, much less to receive moneys from the State to be expended for the benefit of the service. The State has lost its control over them, and they are not responsible to it.

This Act was passed to improve the efficiency of the several companies. The law requires a quarterly report to the Adjutant General of the manner in which the money has been expended. It is not pretended here that any portion of the monies claimed, was ever paid out for or on account of any company. There are no quarterly reports of any expenditures on file in the Adjutant General's office. These companies are now extinct. They have been mustered out, and no purpose of the Act has been, or can now be subserved by the allowance of this claim; the only effect it would have would be to divert so much money from the use and purpose for which the Legislature dedicated it, and give it to private individuals, who have rendered no service whatever. This claim should be rejected.

John C. Laughton.—This is a claim for printing—\$273 75.

This claim dates back to eighteen hundred and fifty-five, and was for publishing "Constitutional Amendments" and "Election Proclamation," in the *Sierra Citizen*, a newspaper published in the Town of Downieville, Sierra County. The authority to publish the proclamation was, at the best, very loose. The claim has not been prosecuted with any diligence. It should have been presented, audited, and paid at the time its indebtedness accrued, the same as the other claims for publishing the same

productions. At this late day, it is impossible for us to determine its validity. We only possess one side of the story, and cannot obtain the other. It was before the Legislature in eighteen hundred and sixty-two, but failed to become a law. We therefore refuse to recommend the relief asked for.

Petaluma Guard.—For yearly allowance to said company.

This claim, being in all respects similar to the one presented by W. A. Anderson, and for the reasons therein assigned, we recommend its rejection.

E. W. Haywood.—For payment of Indian War Bond No. 718, under Act of eighteen hundred and fifty-seven—\$798 50.

This is a claim for payment of War Bond No. 718, of the State of California. The Act under which these bonds were issued was approved April twenty-sixth, eighteen hundred and fifty-seven. The amount is to be paid "out of any moneys hereafter to be appropriated by Congress for the payment of such expenses." The service for which this bond was issued was for spoliation—property destroyed and losses sustained in Tehama County. The authorities at Washington disallowed all claims except for actual military services; we therefore recommend its rejection.

W. L. McEwen and C. F. Smith.—For services in adjusting the books of Controller and Treasurer—\$2,000.

This claim is for clerical services performed under the direction of the Governor and Controller, in examining, comparing, and balancing the books of the Controller and Treasurer, from January, eighteen hundred and fifty-seven, to January, eighteen hundred and seventy-two. The work has involved considerable labor and time, and has been thoroughly performed. We recommend the payment of this claim.

Thomas A. Springer.—For binding two thousand copies of the Political Code (not allowed by Board of Examiners)—\$400.

This claim is to allow the sum of four hundred (400) dollars, the same being for a deduction made by the Board of Examiners on the item of binding two thousand volumes of the Political Code. The Board are satisfied that eighty cents per volume afforded ample profit to the State Printer for said binding. No reason has been assigned by the claimant to the contrary, except that the law governing the price to be paid for binding the Journals of the Legislature—one dollar per volume—should have been followed in this instance. The rule is not applicable and of no force; no law existing regulating the rates at which such work should be paid. We consider the price allowed to be very liberal, and therefore recommend the rejection of the claim.

Thomas A. Springer.—This is for balance of a claim for printing ten thousand copies of the Transactions of the State Agricultural Society—\$4,816 60.

The Legislature of last session, by a concurrent resolution passed February first, eighteen hundred and seventy-two, authorized the printing of ten thousand copies of the Transactions of the State Agricultural Society. On April first, another concurrent resolution was passed authorizing the printing of only five thousand copies of the said Transactions, and repealing the resolution first passed. The State Printer

claims that under authority of the first resolution he had nearly completed the printing of the number of copies authorized by its provisions when the second resolution was passed, and demands payment therefor. The Board of Examiners had no power to go beyond the terms expressed in the resolution of April first. The State Printer was notified that the number was cut down. If he had performed any work on the second five thousand he should then have stopped and had the work estimated. He had no right to proceed with the work in order to make a charge against the State. There is not sufficient evidence before us from which we can determine the amount of work actually done on the second five thousand.

Thomas A. Springer.—For amount of deductions made by the Controller on accounts expeted on by State Printing Expert, and allowed by the Board of Examiners—\$9,452 67.

The Board are compelled, from the nature of the claims of the State Printer, to rely upon the opinion of an Expert, and are authorized by law to employ one. They have entire confidence in the competency and integrity of Mr. E. G. Jefferis, who now acts in that capacity, and believe the rules he has adopted for his guidance are as fair an application of the law as can be arrived at. When this claim came before the Board in its present shape, they requested the Expert, with Mr. Samuel Pope, a practical printer of high standing, to reëxamine the work. They append the report of the Expert, after such reëxamination, and concur in its conclusion, that under a fair construction of the law, the amount due the State Printer upon these claims is eight thousand five hundred and thirty-two and thirty-three one hundredths (\$8,532 33) dollars.

C. H. Reynolds, Agent of Edward Dodge.—For coupons of Indian War Bonds and certificates of indebtedness (coupons and certificates not accompanying claims)—\$21,233 50.

C. H. Reynolds, Agent of L. C. Clark.—For coupons of Indian War Bonds and certificates of indebtedness (coupons and certificates not accompanying claim)—\$7,913 69.

C. H. Reynolds, Agent of Clark, Dodge & Co.—For payment of Indian War Bonds, coupons attached (bonds not accompanying claim)—\$441 36.

C. H. Reynolds, Agent for William Hoge.—For coupons of Indian War Bonds (coupons not with claim)—\$5,120 00.

C. H. Reynolds.—For coupons of Indian War Bonds and certificates of indebtedness—\$10,375 93.

Milton S. Latham.—For coupons of Indian War Bonds, bonds and certificates of indebtedness—\$49,641 43.

Isidor Wormser.—For Indian War Bonds, with coupons attached—\$768 90.

On the fifteenth day of February, eighteen hundred and fifty-one, the Legislature passed an Act "authorizing the Treasurer of State to negotiate a loan upon the faith and credit of the State, for the purpose of defraying the expenses which have been and may be incurred in suppressing Indian hostilities in this State, in the absence of adequate pro-

vision being made by the General Government." The first section of the Act reads as follows:

"Section 1. By virtue of the power given to the Legislature by the Constitution of this State, Article VIII, in case of war, to repel invasion, or suppress insurrection, a loan not exceeding five hundred thousand dollars is hereby authorized to be negotiated upon the faith and credit of the State, payable in ten years, and at any period after five years, at the pleasure of the State, said loan to bear a rate of interest not exceeding twelve per cent per annum, payable annually or semi-annually at such place as the contracting parties may agree; *provided, however,* that the interest of the first year may be paid in advance out of the loan thus made."

Sections two, three, four, five, and six, prescribe the form of the bonds and manner of issuing and negotiating. Section seven reads:

"Any claim which the State has now or may hereafter have upon the General Government for moneys expended out of this loan for the purposes aforesaid, shall be and the same is hereby set apart and pledged for the payment of the principal and interest arising upon said bonds, together with all other moneys in the Treasury not otherwise appropriated, or so much thereof as may be necessary."

Under the provisions of this Act, bonds to the amount of two hundred thousand dollars were issued.

On the third of May, eighteen hundred and fifty-two, an Act authorizing the Treasurer of the State to issue bonds for the payment of the expenses of the Mariposa, Second El Dorado, Utah, Los Angeles, Clear Lake, Klamath, and Trinity and Monterey expeditions against the Indians, was approved. The first section reads as follows:

"A sum, not exceeding six hundred thousand dollars, is hereby appropriated and set aside as an additional War Fund, payable in ten years, out of any moneys which may be appropriated by Congress to defray the expenses incurred by the State of California, and interest thereon at the rate of seven per cent per annum, in the suppression of Indian hostilities; or out of the proceeds of the sale of any public lands, which may be donated or set aside by Congress for that purpose; and should no such appropriation or donation be made, or if an amount sufficient should not be appropriated or donated within the said ten years, then the bonds authorized to be issued shall be good and valid claims against the State, and shall be paid out of any money in the Treasury not otherwise appropriated, to pay the expenses of the expeditions mentioned in this Act."

Under the provisions of this Act, and supplementary Acts of April fifteenth, April sixteenth, and May eighteenth, eighteen hundred and fifty-three, bonds were issued to the amount of six hundred and thirty-six thousand three hundred and fifty dollars (\$636,350). It is not probable that any of the bonds, in either case, were sold for cash. They were received in liquidation by the holders of claims incurred in suppressing Indian hostilities. Neither of the Acts provides for any tax for the payment of this indebtedness, and the accruing interest was not paid. The State, while creating in express terms a debt against herself, seems to have treated the matter as though she were only the agent of the bond holders to collect the amount due to them from the General Government.

On the fifth of August, eighteen hundred and fifty-four, an Act of Congress authorized and directed the Secretary of War to examine into and ascertain the amount of expenses incurred, and now actually paid

by the State of California in the suppression of Indian hostilities within said State prior to the first day of January, eighteen hundred and fifty-four, and that the amount of expense, when so ascertained, be paid into the Treasury of said State; *provided*, that the sum so paid shall not exceed in amount the sum of nine hundred and twenty-four thousand and fifty-nine and sixty-five one hundredths dollars.

The Secretary of War declined to receive the bonds as evidence of the amount of indebtedness, but demanded the vouchers upon which the bonds were issued.

The vouchers and accounts were not sent to the War Department for reasons set forth in messages of Governor Bigler and Governor Johnson, as follows:

"These accounts and vouchers, it is proper here to remark, are a part of the archives of the State, and as such, are required to be kept at the seat of government, as constituting, not only a complete history and exposé of the several Indian wars, but as the basis of the action of the Controller and Board of Commissioners of the War Debt, and as such, their proper place is among the records of the State."—[Annual message of Gov. Bigler, January 9th, 1856.

"In the various military expeditions which California, in defense of her citizens, was compelled to undertake, either from inability or neglect of the General Government to provide such defense—owing to the condition of the country at such periods—with our State credit most ruinously depreciated, prices were paid for supplies, and many expenses incurred, which to us, even now, would appear enormous.

"Furthermore, in the settlement of accounts by the Board of Examiners, and, in some few instances, before the committees of the Legislature, the introduction of oral testimony on behalf of claimants was permitted, but unfortunately the evidence was not perpetuated."—[Special message of Gov. Johnson, January 31st, 1856.

In the message above quoted, Governor Johnson says: "If the Secretary of War shall, by virtue of the authority given him to examine into these claims, assert the right to go behind the act of the Board of Examiners, and inquire whether the demands were such as ought to have been allowed, and the evidence on which the payments were predicated, as appears of record, sufficient to sustain their decision, I doubt not the exacting requirements of the Secretary and his auditing officers would find abundant pretexts to reduce the sum materially."

On the nineteenth of April, eighteen hundred and fifty-six, Samuel B. Smith and J. W. Denver were appointed, by an Act of the Legislature, a "Board of War Debt Commissioners," to prosecute these claims before the Secretary of War.

On the eighteenth of August, eighteen hundred and fifty-six, an Act of Congress authorized and directed the Secretary of War to pay to the holders of war bonds of the State of California the amount of money appropriated by Act of Congress of August fifth, eighteen hundred and fifty-four (\$924,059 65), and provided that the Board of Commissioners appointed by the State should stamp upon such bond the amount due thereon before it could be redeemed—the bonds, after redemption and after taking off any unpaid coupons, to be delivered to the Secretary of War for cancellation.

It will be observed that by Act of Congress of eighteen hundred and fifty-four, payment was to be made to the State; by that of eighteen hundred and fifty-six, it was to be made directly to the bond holders.

In explanation of these changes, we quote from the report of the Commissioners of California War Debt to Governor Johnson, January fifth, eighteen hundred and fifty-seven:

"A bill was introduced at our instance, directing the Secretary of War to pay over the full amount of the appropriation as directed by the Legislature of the State of California. The bill meeting with violent opposition, influenced to a great extent by the holders of the seven per cent bonds, who felt aggrieved at the manner of distributing the appropriation directed by said Act, and being unwilling to give our sanction to any Congressional action which might clash with the Act of the State of California, we finally submitted to the Secretary of War all the books and original papers in our possession, offering to make all necessary explanation, etc. As we had anticipated, the examination was delayed, and after several interviews with the accounting officers, to whom the vouchers had been referred by the Secretary of War, and being convinced that the interest of the State would greatly suffer should a settlement be made upon such a basis, we finally agreed with the bond holders to a bill providing a *pro rata* distribution of the appropriation, viz: the payment of the principal of all the bonds issued prior to January first, eighteen hundred and fifty-four, and interest on the same up to that date."

The Board of War Debt Commissioners appointed to prosecute the claims of the State, after the Act of Congress of eighteen hundred and fifty-six, and by that Act were made an Auditing Board between the War Department and the individual bond holders.

In construing the Act of eighteen hundred and fifty-six, the Secretary of War held that he was not allowed to pay any bonds issued or interest accrued after the first of January, eighteen hundred and fifty-four. The Commissioners advertised for the surrender of bonds on the first of September, eighteen hundred and fifty-six. The unpaid, past due coupons from January first, eighteen hundred and fifty-four, to September first, eighteen hundred and fifty-six, on the bonds presented for redemption, were cut off and returned to the owners, and where a portion of any coupon was paid, a certificate was given for the residue.

Under the provisions of this Act, bonds of eighteen hundred and fifty-one, to the amount of one hundred and ninety-seven thousand dollars (\$197,000), principal, and bonds issued under Act of eighteen hundred and fifty-two and supplementary Acts of eighteen hundred and fifty-three, to the amount of six hundred and three thousand six hundred dollars (\$603,600), principal, were redeemed.

The State has since paid upon the principal of bonds of eighteen hundred and fifty-two, twenty-three thousand two hundred dollars (\$23,200), and upon an original bond of eighteen hundred and fifty-one, the sum of twenty-one hundred and ninety dollars (\$2,190), principal and interest; the duplicate of which had been paid by the General Government.

The whole of the indebtedness, as evidenced by bonds not surrendered, detached coupons, and certificates, amounts to one hundred and ninety thousand five hundred and twenty-eight dollars and fifty-four cents, besides the interest on bonds not surrendered.

The claims now before us belong to one or another of these classes, and amount to ninety-five thousand four hundred and ninety-four dollars and eighty-one cents.

The history of the claims is very succinctly given in the report of the Joint Committee of the Senate and Assembly on the Indian War Indebtedness at the last session of the Legislature. Their payment was recommended by Governor Weller in message of eighteen hundred and

sixty. A bill was introduced into the Senate for that purpose, favorably reported upon, but failed to become a law. In eighteen hundred and sixty-two, Governor Downey recommended that provision be made for their liquidation; stating the amount due as two hundred and eighteen thousand four hundred and sixty-eight dollars and fifty-four cents. The Legislature took the subject under consideration, but failed to pass a law.

In eighteen hundred and sixty-three, the claims were again presented (the Governor, Stanford, including them in his annual message, as indeed he did the following year, as a part of the State debt). Again a bill was introduced before the Senate and failed to pass.

They were before the Board of Examiners of the last administration—Governor Haight, Secretary of State Nichols, and Attorney General Hamilton—who recommended that some competent person be appointed, whose business it shall be to make a thorough investigation of the class of claims, and ascertain what amount of them is outstanding unpaid. He should also be empowered to ascertain from the records in the office of the Secretary of War what bonds have been canceled by him, and to seek such other matter there as is pertinent to his inquiry. And the war bond registers and redemption registers in the office of the State Treasurer should be so corrected as to correspond with the facts as found. It would be well to empower such Commissioner to make his report to the Governor within ninety days after the appointment and qualification, and upon such report, to authorize the Board of Examiners to audit and allow those claims for which, in their judgment, the State is legally or equitably bound—payment to be made out of any moneys in the General Fund not otherwise appropriated.

The whole subject, at last session, was referred to a joint committee, consisting of the Committee on Claims of each House, who recommended that the whole indebtedness be funded. A bill for that purpose passed the Senate, but failed in the House.

The subject has been so fully discussed in the favorable and adverse reports of the various committees and legislative debates, that no new light can be thrown upon it by our report. The vouchers, upon which the bonds were issued, are not now in the archives of the State, having been sent to Washington under the Act appointing the Board of Commissioners, and a joint resolution of April eighteenth, eighteen hundred and fifty-nine.

The Board of Examiners concur in the conclusion of the report of the Committee on Finance of the Senate of eighteen hundred and sixty-two (Senate Journal, thirteenth session, p. 623): "Your committee think the State should not, in the first place, have taken the course she did in making herself liable for these debts, but, having done so, her honor and credit require that she should immediately provide for meeting her obligations."

All the claims mentioned in this report are on file in our office, awaiting the action of your honorable body.

NEWTON BOOTH,
DRURY MELONE,
JOHN L. LOVE,
Board of Examiners.



ARCHITECT'S REPORT

ON THE

ACOUSTICS OF THE ASSEMBLY CHAMBER.

G. H. SPRINGER.....STATE PRINTER.

REPORT.

SACRAMENTO (Cal.), March, 1874.

To the honorable Speaker and members of the House of Assembly:

GENTLEMEN: In accordance with a resolution of your honorable body, of the twenty-second ultimo, I have carefully examined the Assembly Chamber, with a view to devising a remedy for its acoustic defects, and respectfully submit the following report on the same for your favorable consideration:

The qualities of the Assembly Chamber, as a room for debate, are very imperfect, and vary considerably with the positions of the speakers and the atmospheric condition of the apartment, and its defects are mainly traceable to its form, construction, and imperfect ventilation.

In form, the Assembly Chamber is nearly square, being seventy one feet by seventy-four feet on the plan, exclusive of the recess for the Speaker's desk, and a segmental extension at the entrance end.

The square form of plan is invariably found to be highly unfavorable in its effect on sound, which, when generated within an apartment of that proportion, is reflected with such varied force from the different sides and angles as to cause irregular and inharmonious vibrations of the air, and hence occasions more or less reverberation. In rooms, however, in which one dimension—as length, for instance—predominates, the force of the vibrations is spent before reaching the ends, reflections from them decrease, and reverberation, which is merely a broken echo, is consequently less.

The front corners of the room and the angles of the recess for Speaker's desk being square, also help to occasion reverberation, instead of the fullness of tone which a circular form of these parts always serves to promote.

A wide gallery occupies the front portion of the room, and a lesser projection of the same gallery is continued on each side to the rear. The front gallery is carried on Corinthian columns, forming a lobby under for the use of the public, in connection with the Secretary's room and entrance from the corridor. This arrangement, however, unavoidably occasions a large amount of vacant space, both above and below the gallery, which is so separated from the main portion of the room as to be set in unequal vibration by the voices of the different speakers, again causing reverberation, not only making their voices indistinct to

each other, but rendering all sounds nearly inaudible in the parts principally devoted to the use of the public.

Reverberation in this part has been modified, but not removed, by the heavy curtains which have been suspended between the columns supporting the front gallery. These defects are aggravated by the height of the ceiling cove above the upper cornice, which is of an unsuitable form to assist the voice by reflection, and the flat center portion of the ceiling is too much extended and so broken up by deeply recessed panels and enrichments, as greatly to interfere with a proper degree of reflection, serving rather to deaden than to promote sounds falling upon them. The materials of construction are also generally unfavorable to a due degree of resonance, which is obtained when more wood is employed. The floor is fireproof, with but a slight thickness of wood work over it, and the walls are decorated by two orders of pilasters of large proportions, and which appear to be plastered on the brick. The columns are of iron, and the rest of the interior surface of hard, unyielding materials. The powerful vibration which is sometimes found to pervade wood work when affected by the swell notes of a large organ, is sufficient evidence of its value as an agent of resonance and a conductor of sound.

The atmospheric condition of the Assembly Chamber must also be considered very unfavorable to the propagation and transmission of sound. The room is absolutely unsupplied with fresh air, unless through the medium of the windows, the occasional opening of which seems greatly to assist its acoustic properties, but at the same time necessarily producing an aerial shower bath, generally endurable for but a short period at a time. The result is a normally foul state of the air in the apartment during the hours of session, much aggravated by the method of heating adopted, which is by means of a steam heater in the apartment itself, altogether unconnected with the external air, so that the air in the room is continually being breathed, expired, cooled, heated, and rebreathed over and over again, and thus constantly deprived of its proper proportion of moisture, besides being rendered negatively electric, as well as heavily charged with carbonic acid gas. By this means, also, the oxygen of the air, on which all animated beings depend for their vitality, is rapidly decreased. The blood, in consequence, is insufficiently decarbonized, and headache, nervousness, and lassitude ensue—conditions the reverse of favorable for agreeable or healthful attention.

The above results may be regarded as physiological, rather than purely physical, in character; but the above atmospheric conditions are as unfavorable for the proper transmission of the vibrations of sound, as they are unsuitable to sustain the functions of life.

The reason why impurity of air is unfavorable to sound, is because that which makes it foul also renders it less elastic, and therefore offers a greater impediment to the vibratory spheres of compression and extension called sound.

These vibrations are transmitted in air of moderate elasticity, sufficiently charged with moisture, and of average density, with the speed of rifle bullets. Any considerable admixture of uncombined gasses renders the atmosphere less homogeneous, and consequently a less perfect conductor of the vibratory impulses communicated to it by the voice in the articulations of spoken words.

Among other very important effects of imperfect ventilation, are the adverse currents of air, which are produced especially by the opening of the windows, the immediate result of which is that a strong draft is

directed downwards upon the heads of the occupants of the apartment, generally in opposition to the direction of the sound waves. The effect of even gentle currents of air on sounds traveling in an opposite direction, is too well known to need more than mention.

The alterations proposed to correct, as far as possible, the defects above noticed, are represented on the accompanying drawings, numbered from one to seven, to which I now beg to invite your attention. The dark tints show the present form of room; the lighter shade represents the proposed alteration.

No. 1. Main floor plan.

No. 2. Gallery plan.

No. 3. Section on line A.

No. 4. Section on line B.

Nos. 5 and 7. Diagrams showing ventilation, Summer and Winter.

No. 6. Diagram showing imperfect ventilation.

As will be seen by the main floor and gallery plan—numbers one to two—it is proposed to construct a new front partition wall in advance of the columns supporting the front gallery above and below, at P; to connect the same with the side walls by a circular sweep, forming rounded angles opposite the Speaker at R; to raise the floor of the Assembly Chamber towards the front and sides of room, so that each seat will be placed at a slightly higher level above the next seat in front of it. (See N, sections numbers three and four.) By this arrangement each seat will be placed at an equal advantage in reference to Speaker's desk. The seats are also intended to be arranged in the form of a semicircle, instead of the segment of a circle, as at present, and with sufficiently spacious avenues leading to the centre, A. (See ground plan number one.)

A new ceiling is to be also constructed below the present ceiling, connected with the walls by a broader and flatter cove, and the flat space in center is to be reduced in size, and only slightly broken by a smaller number of larger and shallower panels. (See C on sections three and four.) The angles of the square recess for Speaker's desk are also to be changed to a circular form or plan, as shown at R.

By these changes a large amount of reverberatory space is shut off from the Assembly room, and properly reflecting surfaces are provided in front wall, ceiling, and recess for Speaker.

The new gallery in front will accommodate a larger number of people than at present; and the clock, now occupying the center of the present front gallery, can be placed above the entrance door to the new gallery, and will be more easily seen, and less in the way, than as now arranged.

The lowering of the ceiling is necessary to produce a proper degree and direction of reflection of the sound waves, as well as to bring the room into an approximation to the proper proportion. This is found by experiment to be about in the ratio of two in height, three in breadth, and four in length, or three in height, four in breadth, and five in length, according to the position of the speaker, and the uses of the apartment.

In the present case, the purposes of debate require that the orator may be placed at any point within the area of the apartment, and, at the same time, be equally well heard and seen by all. This result is best obtained in a room rather more than semicircular in plan, in which the Speaker's desk occupies the center of the longest side, and the members' seats are arranged in consecutive rows on the semicircular side of the room, M. From the center the vibrations of the Speaker's voice radiate in all directions, and reach each row of auditors simultaneously, and are reflected almost equally by all parts of the room alike, while

from any point within the area occupied by the members' seats the vibrations will radiate to all around, and to the Speaker's desk, with a better average result, and less loss of space, than in any other form, and complies in every respect with the conditions of the ratio first mentioned, that of two, three, and four, and is approximated in the proposed arrangement, as before stated. (See red line, K.)

This form of chamber has been adopted in the French Chamber of Deputies, of Paris, with eminent success.

In the British House of Commons the seats are also raised, but placed parallel to the sides of the room, the Speaker's chair being placed at one end, the room being a parallelogram of about the above proportions.

At Washington the room is a parallelogram, but the seats are arranged in the manner proposed.

VENTILATION AND WARMING.

This subject has long occupied the attention of scientific men, but is only of late years beginning to receive the intelligent practical treatment due to its vast importance, in both a sanitary as well as an economic point of view. Quite as many failures have resulted from an imperfect apprehension of the physical laws concerned, as from a partial view of the results to be accomplished, in the same place, at different seasons of the year.

The conditions to be observed to ensure perfect ventilation in Winter are exactly the reverse of those to be kept in view in Summer. In the first case the apartment has to be supplied with warm fresh air, and deprived of its cold foul air; while in Summer cold fresh air has to be supplied, and foul warm air must be carried away.

To insure perfect ventilation, at an average temperature, for each occupant of a room of average size, five cubic feet of air per second, or three hundred cubic feet per minute, has to be changed. This operation should be rather more active in a small room than in a very large one, on account of the much greater comparative area of the latter. Much less than the above amount of air changed per minute, will result in the accumulation of foul air, either in the upper or lower part of the room, according to the season—whether Summer or Winter; this, by degrees, will approach the breathing line, or will be carried above or below it, by either ascending or descending occasional currents, caused by improperly placed ventilators, window ventilation, or some other unregulated source. The foul air will then begin to be rebreathed—an evil which at once accelerates with great rapidity, on account of the simultaneous decrease of oxygen and increase of carbonic acid gas; the latter being produced by continuation of equal volumes of the oxygen in the air with the carbon in the blood, during the process of breathing.

A thorough and constant change of air, both in Summer and Winter, can be easily and satisfactorily accomplished in the following manner: Warming and ventilation in Winter is to be effected by means of steam chests, or radiators, placed in the recesses of the windows, below the new raised floor of the chamber, S (see diagram number five, section number three), and connected with the external air by means of large register gratings, three feet by one foot six inches, placed outside and below the window sills at G. The fresh air, being warmed in the steam chests at S, outside of the room, becomes lighter, and rises at once to the ceiling of the chamber, where it gradually accumulates (see red

waves, W, on diagram number five), pressing down and occupying the place of the colder and heavier foul air below (see gray tint, D), which is at the same time drawn off by the ventilators at V, which are connected with the exhaust flues at F. These flues are to be provided with a small steam heater at the bottom of each, H, which causes a strong draft upwards through the ventilators before mentioned.

By this means, with extracting flues thirty feet in sectional area, thirty thousand cubic feet of air can be changed per minute; this amount, divided by one hundred, the average number of occupants of the room, shows three hundred cubic feet for each, changed per minute, or five feet per second. By this means, also, abundance of pure fresh air, of moderate temperature, is supplied from above, independently of the windows; the foul air is constantly carried off at a point far below—instead of above and near the breathing line—as is at present the case.

In this way the whole of the atmosphere in the room is set in motion, with a gentle downward tendency towards the center from the sides, thus concentrating and assisting the voices of the different speakers, instead of diffusing and counteracting them, as is the case where the air is set in motion irregularly, or in an opposite direction, as generally occurs by window ventilation and the system of heating at present in use, where the warm air rises in the center of the room, and descends to the ventilators placed above the breathing line at V (see diagram number six), thus reversing the conditions necessary for the best acoustic effects. C shows cold air from an open window, descending on the heads of the occupants. W shows warm foul air ascending from the heaters and rising with and vitiating the pure cold air as it enters. F shows foul air from roof, descending through ceiling openings and mixing with warm foul air, which rises into roof R. The dense foul air, D, when mixed with the cold and heavier pure air, C, is also carried upwards above the breathing line to the ventilator V, at the sides, as shown.

Summer ventilation is to be effected in a manner exactly the reverse of Winter ventilation, viz: by means of flues from the ventilation openings in the ceiling (see diagram number seven), to be kept closed in Winter, which flues communicate directly with the extraction turret at E. Fresh cold air is to be admitted through the steam chest registers, S, used for the admission of warmed air in Winter, the tubes of which can be supplied with a stream of cold water, by which the temperature of the incoming air can be lowered to any desired degree. By this means a cool atmosphere of pure air is diffused through the room, in level strata, without draft; and the warm air, being lighter, passes out at the ceiling, carrying with it the still warmer foul air, which is thus kept far above the breathing line.

The foul air ducts F, above the ceiling, where they are brought together in the extraction turret E, are to have a row of gas jets, J, inclosed in the galvanized iron tube T, which can be lighted when required during Summer, and regulated by a stop-cock under control of the janitor. By this arrangement, the removal of the warm air will be sufficiently accelerated, and the rapid removal of the air effectually insured.

By the above means the chamber can be brought to any desired temperature in a few minutes, as much air being changed at one time of the year as at another, without reference to the seasons. The warm external air being cooled in Summer, and the cold external air warmed in Winter, or the air introduced at the external temperature, as may be desired.

The space below the present front gallery will remain as now, a public lobby or anteroom, having three wide openings connected with the Assembly Chamber, but rather more detached, to prevent reverberation, which is also rendered much less likely to occur in consequence of the raising of the floor under the rear seats, by which also a greater degree of resonance is obtained than is possible with the present fireproof floor. The present front gallery, over the lobby, is to be occupied by a wide center passage opening on the front gallery, with a room on each side; that to the right having a small staircase communicating with the roof of the building, and lighted by a skylight, and that on the left forming a small additional office. In the corners of these rooms are also placed foul air shafts, connected by means of flues F under the new raised floor of the Assembly Chamber with the foul air ventilators V, placed in the aisles.

The architectural effect of the proposed changes could not fail to be pleasing and satisfactory.

The area of the main floor of the Assembly Chamber would remain the same as at present. The members' seats, instead of being crowded together around the Speaker's desk, as at present, would be regularly spaced, with spacious and convenient avenues leading to the center.

The slight elevation of the rear seats would give an agreeable amphitheatrical effect to the apartment, lending it a stateliness and dignity more in keeping with the importance of the purposes to which it is devoted.

In form, the Assembly Chamber will be much improved. The rear wall would remain the same, with the exception of the rounding of the angles of the square recess behind the Speaker's desk, which will add much to the effect of the columns of the pediment. The side walls will be connected with the new front wall by circular corners, and the present coupled pilasters above and below are continued around the front wall, but of less projection than as at present.

The under side of the gallery is to be paneled and supported on massive molded and enriched brackets, springing from the faces of the lower order of Corinthian pilasters, the upper order remaining as at present.

The ceiling of the Assembly Chamber is provided with broad spaces for fresco painting, a mode of decoration which may, at a slight cost, and with excellent effect, be applied to the walls.

In elaborating a scheme for the improvement of the acoustics of the House of Assembly, I have felt the importance of suggesting only such changes as are calculated to insure the best result.

Though fully in use but for a brief portion of every two years, the importance of the purposes to which it is applied, removes the legislative hall from the category of ordinary buildings, and impels the conviction that this apartment, of all others, should be thoroughly fitted with every advantage, both of science and of art, and in all respects equal, both in sanitary and economic conditions, with the advanced developments of the times in which we live.

While fully sensible that much belonging to the science of the subject is left untouched in the above investigation, I have feared to outrun the limits of a report, which, in the present case, should deal with established facts rather than untried theories.

For further light on the above subject, I beg to refer below to various technical works bearing on the same.

The inclosed estimate of cost includes all expenses connected with the proposed alteration.

All of which is respectfully submitted.

JOHN WRIGHT, Architect,
418 California street, San Francisco.

Technical treatises referred to in the above report: On Acoustics—T. R. Smith. Acoustics and Ventilation—Seltzer. Warming and Ventilation—Leeds. Warming and Ventilation of Buildings—Tomlinson. Warming and Ventilation—Hood.

Detailed estimate of cost of altering Assembly Chamber, Capitol building, Sacramento, California.

Raising floor, lowering ceiling, and constructing front partition walls and extraction turrets at E, together with all wood work and tin work, complete.....	\$6,500
Heating and ventilation, with flues and tubes, complete.....	3,000
Plastering	2,000
Painting	1,000
Fresco work	2,500
Total cost of alteration.....	\$15,000

MINORITY REPORT

OF THE

Committee on Counties and County Boundaries

ON

SENATE BILL No. 301,

CREATING THE COUNTY OF VALLEJO.

THE STATE OF NEW YORK

IN SENATE,

January 10, 1890.

REPORT OF THE

COMMISSIONER OF THE LAND OFFICE

G. H. SPRINGER.....STATE PRINTER.

REPORT.

MR. PRESIDENT: The minority of the Senate Committee on Counties and County Boundaries, having, in connection with the majority of the committee, had under consideration Senate Bill No. 301—entitled “An Act creating the County of Vallejo”—beg leave to report that they cannot agree with the majority, and submit this as a report of the minority.

The bill, when reduced to plain terms, proposes the segregation of Vallejo Township from Solano County, and the creation of said township into an independent county. The question of public policy, which the bill places before this Senate, and to be determined by this body, is one involving the creation of a new county. The startling phenomenon in the proposition is, that the people thus to be set out by themselves are unanimously opposed to the measure. In the regular and legitimate order of things, the proposition to set up local government originates in the desire of the people who are to be subject to that government. A true public policy is opposed to the multiplicity of local county governments, involving, as it does, a corresponding multiplicity of officers, county buildings, and the whole range of expensive county machinery. But it sometimes appears that the advantages to be gained counterbalance the impolicy of creating and setting in motion the machinery of a county government; but for a Legislature to force upon a mere fragment of a county a local county government, against the unanimous protest of the people thus to be set apart, as proposed in the bill, would be an act of oppression and injustice. The general provisions of this remarkable bill may be briefly presented, as follows:

First—It provides for the division of Solano County by creating out of the territory of Vallejo Township a new county.

Second—It provides that the county so created shall be released from liability as to all existing indebtedness of Solano County.

Third—It not only forces a county government upon an unwilling people, but gives the new county a name, fixes the terms of its officers, fixes the terms of its Courts, determines what officers it shall have, states the times at which its Board of Supervisors shall meet, and in all respects forces a government dictated to the finest detail. The objections of the subscribing minority follows this subdivision of the subject under consideration.

First—The present territorial area of Solano County is about nine hundred square miles, while the territorial fragment upon which county

government is sought to be forced has but twenty-one square miles in area. Real estate is the great basis of wealth; personal property is ephemeral. To erect a county upon such limited realty is an absurdity, and plainly contrary to public policy. If these people on these twenty-one square miles had come before this body asking for the privileges of local sovereignty, this minority would have found this consideration of sufficient gravity to justify our opposition. The proposition is reducible to this: eight hundred and eighty miles of territory propose the expulsion, or banishment, or ostracism, of twenty miles. In behalf of this proposition a petition is presented to which is appended one thousand three hundred signatures, followed by a remonstrance signed by one thousand seven hundred.

These manifestoes passed under the scrutiny of your committee, and it is admitted on the part of the friends of the bill that a majority of the taxpaying, voting citizens of Solano County have remonstrated against the passage of this bill, and three hundred and forty of these remonstrants reside outside of the banished township. The minority, then, propose to expel the majority from the county, force upon that majority a county government, and retain eight hundred and eighty and nine one hundredths ($880\frac{9}{1000}$) of the territory.

Second—The proposition to release this township from liability of all indebtedness of the county, is one of doubtful honesty and propriety. As a precedent, it would, if successful, be most dangerous. Your committee fail to perceive the difference, in a legislative sense, between releasing this township and forcing it to assume all the liability. The present debt of the county is about two hundred and fifty thousand dollars. If this Legislature can, by law, release a township of its proportionate liability, it can confine that liability, by law, to a township. This bill does, in fact, confine the liability to the eight hundred and eighty square miles retained by the old county, and this without the official consent of its people. True, certain citizens of that county have come here and said, for the inhabitants of the county, that they are willing to assume this liability; but this is not official and authentic, and will not justify this Senate in forcing this liability upon them. That the debt of the county was credited when its territorial area was intact, and was a lien upon the whole county, to limit and restrict the operation of the liability then incurred, is plainly an impairment of the obligation of a contract. We deny the right of the Legislature to so restrict and limit the operation of this liability.

Third—The proposition in this bill, to force a local government upon a protesting people, is a prostitution of the dignity of self-government. The bill is offensively minute in its details, describing and defining a government much in the tone and spirit a conqueror might be supposed to assume toward a conquered province. It is in the nature of an enforced self-government. It is as if the Legislature had sentenced these people to a term of self-government as a penalty, and, on their part, would be an exercise of local sovereignty under protest; and in all its essential attributes, this is a servitude.

The reasons urged in behalf of a bill open to these objections will excite curiosity, if they do not challenge the closest interest. The committee gave the parties to the contest a patient hearing. On behalf of the petitioners, it was represented that the City of Vallejo possesses a numerical superiority and ascendancy in the county. In party conventions this ascendancy asserted itself to the defeat of aspirants in other portions of the county. It also appeared, that recently the county seat,

by vote of the people, had been removed to Vallejo. It was further intimated, that the location of the United States Navy Yard, being located at Vallejo, gave that city a migratory population; that the naval station brought to that city a class of undesirable people, in the persons of sailors and marines; that these people were disturbers of the peace, often involving the county in expensive criminal prosecutions.

All these things might be admitted, and they would only serve to afford reasons for attaching a larger rural area in political and civil associations with city, to govern it and hold it in check. But they are most unstatesmanlike reasons for segregating this small territory, and placing upon it the burden of caring for and governing so large a criminal element.

If all these representations be true, they point directly away from the provisions of this bill for a remedy; and, if they are true, it would seem that a fitting title for this bill would be "An Act to establish a penal colony." But the respondents deny these things. They show that, while the City of Vallejo is dependent chiefly upon the Navy Yard as an industry, that the mechanics employed there are industrious and law-abiding as mechanics usually are everywhere. They are citizens of the State, entitled to all the rights of protection guaranteed to other citizens.

The political party consideration is not worthy of respectful notice. Parties change, and whoever votes for the division of a county to adjust party balance, may, in the mutations of party, desire to undo at the next session of this body what he may have done in this.

The recent removal of the county seat is the immediate cause of this upheaval. By its numerical superiority, Oakland recently obtained the county seat of Alameda County. The people of Alameda have a cause of action against Oakland parallel to that brought in the form of this proposed legislation to punish Vallejo; for no disguise, however cunningly contrived, can conceal the plain, blunt fact that the animus of this bill is retributive. Are we to establish the precedent that cities, successful in the competitive race for the location of the county seat, shall be banished from their territorial relations and forced to assume the burden of county governments?

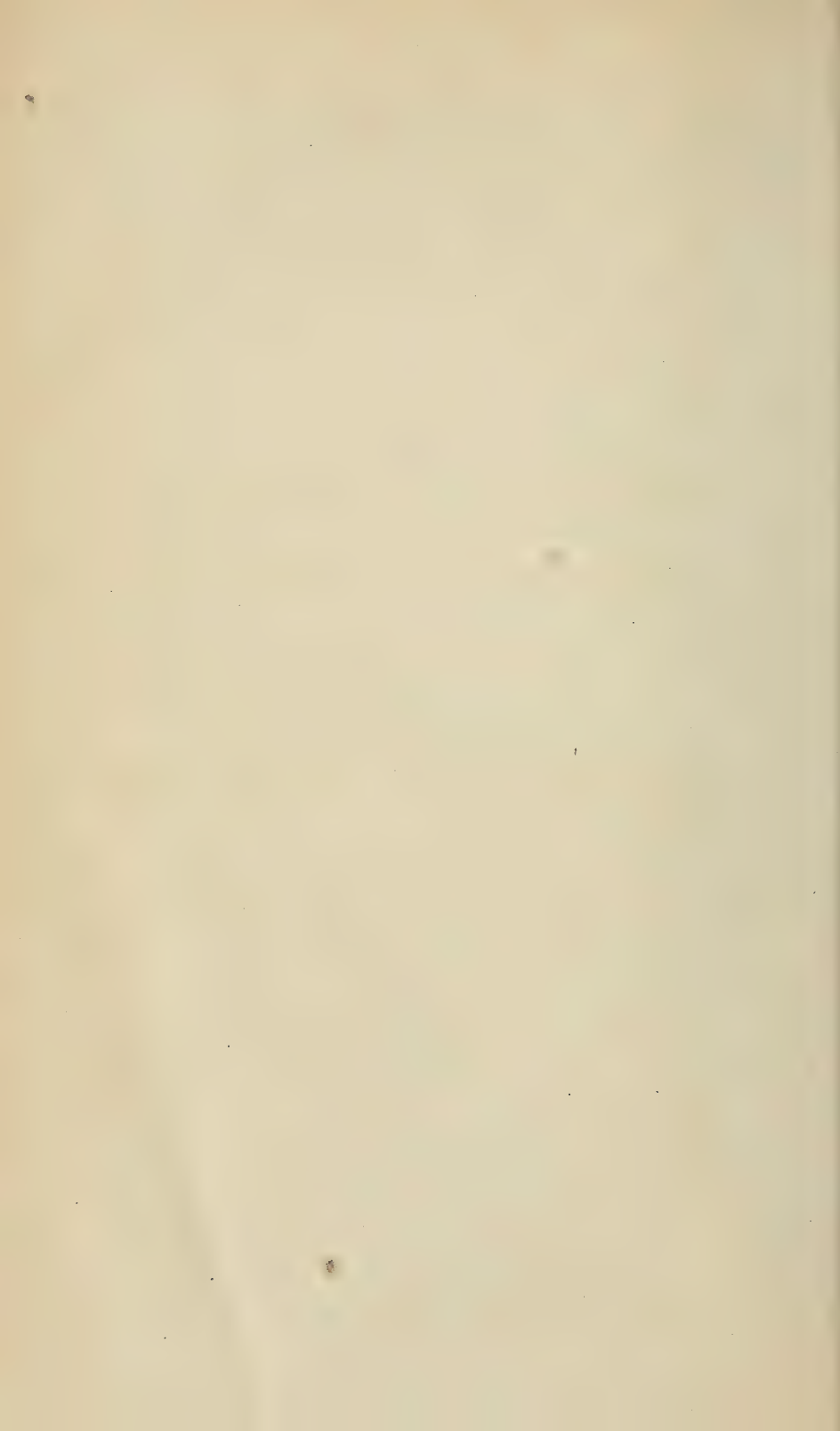
No citizen of California regrets that we have a Navy Yard upon this coast. That establishment is not only necessary, but confers pecuniary advantages upon the whole State. If it be true that surrounding this naval station, a population containing a large criminal element gathers, then the people living on this fragment of twenty square miles may justly claim protection from the State, and in this fact your committee would find an unanswerable argument against the policy of placing the citizens of Vallejo Township at the social, political, and civil mercy of that population. Your committee fail to find any considerations in favor of the bill worthy to be entertained.

Division cannot be asked on the ground of the non-intercourse of the two sections, for the facilities of communication are ample, are open all the year, and are coincident with the laws of commerce and business. Division cannot be based on the ground of a too extended territorial area, because the local sovereignty with which, in the plenitude of generosity, it is proposed to force upon a people, applies to but twenty square miles. Division cannot be urged on the ground of political opinions entertained by the people of the offending city, because this would be ostracism for opinion's sake. Division cannot be supported on the consideration that Vallejo Township costs the county a larger sum than

is returned in taxes, because this would justify the expulsion of any township in any county similarly circumstanced, and is an overwhelming argument against the bill where the abstract policy of erecting a new county is considered, for it points to the early bankruptcy of the proposed new county, and the consequent early dissolution of a civil government therein.

For these reasons, the minority recommend that the bill do not pass.

CHARLES KENT.



REPORT OF JOINT COMMITTEE

ON THE

Geological Survey of the State.

G. H. SPRINGER.....STATE PRINTER.

REPORT.

MR. SPEAKER: A majority of the Joint Committee of the Senate and Assembly appointed under and by virtue of a resolution authorizing them "to investigate the progress and purposes of the State Geological Survey, and report upon the propriety of a further appropriation for the same, and whether it is intended to be, or can be made, beneficial to the practical interests of the State," beg leave to submit the following report:

The purpose of the survey is contained in the Act organizing it, which Act called for "a full and scientific description of its (California) rocks, fossils, soils, and minerals, and of its botanical and zoölogical productions," together with "a full and comprehensive report, embodying the results of the entire survey, with proper maps, diagrams, and drawings of the same." This Act required a general exploration of the entire State, and when it is considered that the area of the State is one hundred and eighty-eight thousand square miles, the magnitude of the work will be apparent.

The progress so far made has been fully detailed in the reports made by the State Geologist to the Governor, and need not be repeated here.

In our investigation of the subject, we requested from the State Geologist a statement of the present condition of the survey, and such facts that would show whether the survey had been or could be made beneficial to the practical interests of the State. We herewith present the same, and as it appears to cover most of the inquiries embraced in the resolution under which we were appointed, we hereby submit the same with this report.

Your committee, desirous of presenting to the Legislature not only the present condition of the survey, but also the property of the State in charge of the State Geologist, we herewith present the same in the annexed schedule, entitled "Statement of the condition of the State Geological Survey property."

In the examination it has given to the subject, the committee is of the opinion that the work should go on; that it is due alike to the State, to what has been already accomplished, and to the assurance we have received as to the practical scope and direction of the work for the future. To halt now would not only be a positive injury to the State itself, but would derogate from its high character, considerably enhanced as it has been by the work itself. It is expected that the Legislature will represent the advancing intelligence of the age and recognize the claims of progressive science, as applicable to all the great

practical and philosophical interests of modern society. Because some one has not been thereby enabled to discover a placer or quartz mine, is a very superficial argument why the survey should be discontinued, especially when, up to this date, it has accomplished its legitimate ends. The practical benefits of the survey will yet be reaped as the work progresses, according to the design of its head. In view of all that has been done, all it promises to do, and in full recognition of the great utility that will proceed from the prosecution of the work, and accepting as conclusive of its importance and utility the testimony of the scientific world, the majority of the committee earnestly recommend that the survey be continued.

After a full examination of the subject, your committee have concluded to recommend a "Board of Geological Survey," whose duty it shall be to exercise supervision and control of the geological survey of the State. The committee do therefore present a bill entitled "An Act to complete the geological survey of California," and earnestly recommend its passage.

SELDON J. FINNEY,

Committee of Senate;

DANIEL ROGERS,

D. W. McCALLUM,

WM. ROUSH,

Committee of Assembly.

STATEMENT SUBMITTED BY THE STATE GEOLOGIST TO THE COMMITTEE APPOINTED TO INVESTIGATE THE AFFAIRS OF THE GEOLOGICAL SURVEY.

GENTLEMEN: Since eighteen hundred and forty-five I have been engaged in surveys of mineral lands, and since eighteen hundred and forty-seven almost constantly in the employ of the United States Government, or of some one of the States. During seven years I held the position of United States Geologist, and during this time I traveled through almost every State east of the Mississippi, while engaged in preparing my work on "The Metallic Wealth of the United States." Then I was for four years State Chemist of Iowa, and associated with Professor James Hall in the management of the Geological Survey of that State. Afterwards I was employed by the States of Wisconsin and Illinois to make a minute investigation and report on the lead regions of the Upper Mississippi, and I was engaged in this work when appointed State Geologist of California. Thus it will be seen that I had had fourteen years experience in the survey of mineral regions previous to my appointment here, or twenty-seven years of active service in the field.

Not having been personally known to a single member of either branch of the Legislature which passed the Act originating the survey, I owe my appointment solely to the letters which I forwarded from the East to Governor Downey, on hearing that a survey was contemplated, and which formed so strong a body of evidence in my favor that my name was inserted in the Act authorizing the survey, as State Geologist. These letters were signed by nearly all the most prominent scientific men in the country, including such names as Bache, Henry, Peirce, Agassiz, Hitchcock, George P. Marsh, Dr. Nott, Dr. Torrey, and many

others. Until the passage of the "Code" by the last Legislature, I have always held my office by authority of the Legislature, and without the possibility of executive interference. In the Code a clause was introduced, unknown to the friends of the survey, making the State Geologist to hold his office at the pleasure of the Governor. I would never have accepted the office under any such conditions, and I think that I may with propriety demand that the State Geologist's office should be entirely outside of politics, and that he should not be liable to removal from it except for cause.

I now wish to call your attention to the requirements of the Act instituting the survey, and to the fact that the essentially scientific character of the work has never been changed, but, on the contrary, has been three times reaffirmed by legislative enactment.

The original Act calls for "a full and scientific description of its (California) rocks, fossils, soils, and minerals, and of the botanical and zoölogical productions," together with a full and comprehensive report embodying the results of the entire survey, with proper maps, diagrams, and drawings of the same. No essential change has been made in the character or language of this Act. It has always been a full and scientific description of rocks, fossils, minerals, and botanical and zoölogical productions which has been called for, and not partial and hasty reports on the economical geology.

There has never been any action, on the part of the Legislature, to indicate that, in their opinion, the character of the survey ought to be changed; on the contrary, at the last session, my work was fully indorsed by an almost unanimous vote in both branches of the Legislature. And when the question was specially put, "Shall the survey be wound up at the end of two years?" the answer was emphatically "no" by a large majority.

I therefore think that I am justified in stating that, so far as legislative action goes, I have been sustained in all my plans, and that I have had no power, under the law, to carry on the survey in any other than a thorough and scientific manner.

It is true that no appropriation was made by the Legislature of eighteen hundred and sixty-seven and eighteen hundred and sixty-eight, for the continuance of the work, owing to unexpected opposition in the Senate, the Assembly having manifested a willingness to appropriate. But, although a bill was introduced in the Senate requiring me to close up the work, it did not pass the Assembly, but was negatived by a large majority.

At the next session, that of eighteen hundred and sixty-nine and eighteen hundred and seventy, the work was again ordered to be resumed, I having carried it on at my own risk and expense during the interval. And again, in the session of eighteen hundred and seventy-one and eighteen hundred and seventy-two, an appropriation was made for the continuance of the work, and, as before stated, by an almost unanimous vote in both branches, as that a hint on the part of the Legislature, that it was advisable that I should in any way change the character of the work. So large a mass of evidence was presented to the Legislature, by the friends of the survey, that the work had given entire satisfaction to those best able to judge of its value, that hardly any opposition was made to its continuance. Petitions were presented from the San Francisco Chamber of Commerce and from the California Academy of Sciences, and also one signed by every teacher connected with the public schools of San Francisco. All these earnestly requested

the Legislature to make the necessary appropriation to continue the work, under my supervision, in the same manner and spirit with which it had been previously conducted. A large number of letters from eminent men, in all parts of the world, were presented by Mr. Tompkins, the eloquent advocate and friend of the work, all indorsing it fully. And I may specially mention one dictated by Agassiz, from his sick bed, to do which, as I was assured afterwards, on the best authority, he risked his life, so great was his anxiety that so important a work should not be stopped. And I may add, in this connection, that I have, during the progress of the survey, received hundreds of letters from all parts of the world, including almost every State in Europe, China, the East Indies, Australia, and South America, containing assurances of the high esteem in which this work was held, and of the general anxiety that it should go on to completion. Some of this evidence of the favor with which the California survey is and has been held I have had printed, and copies are furnished herewith for reference and distribution.

I submit, therefore, that it appears that I have closely followed the dictates of the Legislature in planning and carrying on the Geological Survey of California, and that this work has been executed in such a manner as to give satisfaction to those best qualified to judge what such a survey ought to be. I also submit, that having myself had more experience than any man now living in the United States in the conduct of geological surveys of mining regions, and having published more than any one else in this department, I have a right to feel that I am likely to know, at least as well as any other man, what is really for the best interest of the State, and how such a survey ought to be conducted to give satisfaction to the people, and in the long run the best possible results with the means placed at my disposal.

I am not aware that my honesty, my desire to do the best in my power, or my industry, are called in question; at all events, I have given the best years of my life to this work—was young when it was commenced, am old now—and I have never received one cent, either directly or indirectly, for work done here, except in the form of my regular salary. When absent from the State, for the purpose of getting a better idea of the geological structure of our adjacent territory, I have received no pay from this State, either as salary or for traveling expenses, and such absences have been extremely few and of short continuance. Neither have I ever received any fees or payments of any kind whatever for information given to persons outside of the State; nor have I now, or ever have had, any interest in any mining enterprise or speculation whatever, for I consider it improper for a person holding the position of State Geologist to have any pecuniary interest in any property in regard to which he is expected and required to give an unprejudiced and impartial opinion.

And here I will add, that fault having been found with me on account of my connection with Harvard University, I consider it proper to state the exact facts in this matter. At the time when I was receiving no pay from the State of California, namely: in eighteen hundred and sixty-eight and sixty-nine, I delivered a short course of lectures at Cambridge, chiefly devoted to the subject of the topography and zoölogy of the region west of the Rocky Mountains. With the exception of the time required for preparing and reading these lectures—twenty in all—and three months spent in a geological exploration of a part of the Territory of Colorado, I gave the whole of my time, dur-

ing the two years for which no appropriation had been made for continuing the survey, to the service of the State of California, preparing and publishing two volumes of the Survey Report, and carrying on the work on some of the other volumes and maps. Two years later I read some of these lectures prepared in eighteen hundred and sixty-eight and sixty-nine, to a select audience at the Museum of Comparative Zoölogy, occupying, as near as I can remember, about twenty hours in all. This ended my active connection with the University, and since that time I have neither done any work or received any pay, except for and on account of the Geological Survey of California. Whenever the State is disposed to settle with me, for about a year and a half of hard work done without pay, I will gladly set off what I have received from Harvard University against which is equitably, if not legally, due me from the State of California, which will leave a balance in my favor of about six thousand dollars. About a year ago I handed in my resignation of my professorship to the President of the University, but afterwards consented to withdraw it, temporarily at least, because there were certain peculiar circumstances connected with my position in the University, which made it seem unjust for me, at that time, to sever my connection with the institution entirely. This makes no difference, so far as the State of California is concerned, for I shall continue, so long as I hold the position of State Geologist, to give all my time and thoughts to the work of the survey. It has also been stated that most of my time is spent at the East, to the neglect of the interests of the work on which I am engaged in California. To this I reply, that in the past four years I have spent twenty-nine months in California, and nineteen at the East, and that I have not been absent from this State, except when the business of the survey required such absence, with the exception before noticed of about twenty hours spent during the Winter of eighteen hundred and seventy and seventy-one, in reading over lectures then already prepared. My whole time has been devoted exclusively to the work of the survey. During the first four years after this work had been commenced, I was never out of this State, excepting for one or two short visits to Washoe—occupying about three weeks in all—for which I neither charged or received any pay, either as salary or for traveling expenses. Neither did I receive any pay from any other source for work done during those absences from California; my only object being to acquire some trustworthy information in regard to the zoölogy of the region bordering on California, a knowledge of which seemed to me to be of great importance to our own survey.

I desire now to present my views in regard to the practical value of the survey to the people of the State, and in doing this, I will refer first to what has been done at the office of the State Geologist, in the way of giving information to inquiries made in person and by letter.

These inquiries have been for information on almost every conceivable subject connected with the development of the mineral and agricultural resources of the State, and they have come from every part of California, and also from other States, and from all parts of Europe. They have been very numerous, and I think I am not exaggerating when I state that not less than five thousand such applications for information have been received and answered. The answer often required considerable research and examination of specimens, which have been frequently subjected to chemical investigations, although usually a mere inspection of the materials furnished has been sufficient. Such applications for information have always been answered as fully as seemed in

the interest of the State desirable, and, in all cases, without charge to the applicant. I feel the greatest confidence that in this way alone, leaving out of consideration all the other work done by the survey, we have benefited the State to the full amount of the expenditure which has been incurred in carrying on the survey. I do not know of any instance where those who have followed the advice given at our office, have not saved money by so doing. And I know that many persons have become interested in California, and have been led to invest money here, on the strength of information furnished by the State Geologist. It is true that much time has been required for the proper answering of these applications for information, but I have always considered this department of the survey work as of great importance, although the results do not appear on paper. In point of fact, the State Geologist has acted as a sort of "Commissioner of Emigration" for California, and especially in such cases as involved the establishment of new branches of business connected with the utilization of our metallic and mineral deposits.

In the next place, I will call attention to the *practical value of our maps*. Their value has been so fully recognized by the people of the State, that it seems hardly worth while to spare much time in demonstrating that which is to most people self-evident: the eagerness with which the map of the State, just issued by the survey, has been bought up is sufficient proof that in preparing and publishing it we have satisfied a real want. It is sufficient to compare our maps of various portions of the State, with those in circulation and general use when the survey commenced, to see what immense additions we have made to the geographical knowledge of the State. There is no part of the world where maps are so much in demand as in California, and I estimate that in a short time we shall be rendering the people more service, in the way of supplying them with these indispensable guides, than we could have done by any other expenditure of our funds. The maps are sold at a price which just about covers the cost of paper, printing, and mounting; so that every person purchasing a copy in reality receives back from the State, in the form of gratuitous information, more than he has paid as his share of the expense of carrying on the work.

Finally, I would remark that a great amount of time has been spent in the careful examination of the mining and mineral localities of the State; part of our results have already been published, a part is now in press, and there is more of great value and importance to come. In the volume now being put in type, the coal, quicksilver, and petroleum interests of the State have been exhaustively treated.

I have been accused of keeping back the economical results of the survey for the purpose of giving the precedence to the scientific. This is not so. The principal reason why the economical geology has seemed to lag is, that persons could be found ready to work for nothing, or for very small salaries, on the strictly scientific portion of the work, while skillful mining engineers and practical geologists are few and far between, and can command very high salaries. Besides, the chance which such men have of making large sums of money for themselves when engaged in operating on their own account, or for the benefit of private parties, makes it difficult to retain the services of any one set of assistants long in this department of the work. But I maintain that what we have already published in the Board of the survey is of great value, and as one of the many proofs of the truth of this statement which I might furnish, I would refer to the opinion of the head of the Department of

Mines, in Victoria (Australia), who in one of his official publications credits our survey with having first thrown light on the geology of gold. That there are many persons in the State who receive no benefit from our investigations, is not to be denied; but the question arises, whether that is not chiefly their fault, or misfortune, rather. A certain amount of education is necessary to be able to avail oneself of the results of any scientific work. It is of no use to present a pair of spectacles to one who is wholly blind, nor an ear trumpet to a man already stone deaf; but that does not prove that spectacles and ear trumpets are not valuable auxiliaries in many cases. It is certain that such geological surveys have been, or now are being carried on, in every State of the civilized world. There must be some practical value in them, as well as scientific, for very few States engage in investigations to any great extent, at least, which are of a purely scientific character. And as I am familiar with all that has been done on all the great geological surveys throughout the world, I feel sure that I am not mistaking the facts when I declare that in no one of them has there been more regard paid to the practical, than in ours. The trouble has been, and still is, that our means have been too limited to accomplish all that was desirable, while the people, not being aware how great an amount of time and money is required for accurate work, have been unreasonable in their demands upon us.

In conclusion, I would say, that the results already attained by the State Geological Survey of California are of great importance, and that their importance has been freely acknowledged throughout the world. Our style of work has been repeatedly copied and imitated in other States, and even if the progress of this great undertaking is now stopped, it will not have been in vain that it was begun.

J. D. WHITNEY.

SAN FRANCISCO, January 6th, 1874.

STATEMENT OF THE CONDITION OF THE STATE GEOLOGICAL SURVEY PROPERTY.

The property of the State now in my charge may be divided into six classes, as follows:

1. Office furniture and instruments.
2. Collections of natural history and geology.
3. Electrotypes plates, wood cuts, lithographic stones, and other similar material, already used in printing the reports and maps of the survey, and intended to be used again in future editions, if such be required.
4. Printed stock of publications already issued.
5. Electrotypes plates, lithographic stones, etc., belonging to volumes now in process of publication, but not yet issued.
6. Manuscript maps and other material not yet put in shape for publication.

Each of these classes I will take up separately, premising that an exact inventory could not be given without a large amount of labor,

although an approximation sufficiently exact for all practical purposes can easily be reached.

1.—OFFICE FURNITURE AND INSTRUMENTS.

The office furniture consists of tables, chairs, mineral cases, and shelves in which the specimens of the survey have been kept while the work has been going on. They are of little value, except for the purposes for which they have been used. If offered for sale at auction, they would bring but a small sum. I recommend that they be given to the University, to which institution they will be valuable for the display of duplicates and for storing specimens.

Of the instruments, nearly the same may be said. Some of them have been sold, because no longer needed, and of the remainder, many are much worn. They would bring only a moderate sum if sold, and might, with propriety, be given to the University, where they would be useful to the Professors of Engineering and Surveying in their practical course of instruction.

2.—THE SCIENTIFIC COLLECTIONS.

These have already been disposed of by the Legislature, having been given to the University. They are almost all packed and ready for delivery. It is exceedingly to be regretted that a large and valuable portion of them was burned, some years ago, in the "Pacific Warehouse," a so-called fire-proof building, where they had been stored for safekeeping, because their weight was so great that they could no longer be kept in the same rooms with the Survey Office.

3.—ELECTROTYPE PLATES, ETC. (OF VOLUMES AND MAPS ALREADY ISSUED).

The larger publications of the Survey (excepting Geology, Vol. I) have been electrotyped or stereotyped. The smaller pamphlets, such as the "Catalogue of the Mollusca," the "Mining Statistics," etc., have not been.

The electrotype plates of Paleontology, Vols. I and II, are in Philadelphia, in charge of Messrs. Sherman & Co., and are in a fire-proof building.

The electrotype plates of Ornithology, Vol. I, and of the Yosemite Guide Book, both the 8 vo. and the 16 mo. editions, are in Cambridge, in charge of Welch, Bigelow & Co., also in a fire-proof storehouse.

The cuts of the Ornithology have been electrotyped, and are soldered into the pages. The originals were given to Professor Baird, of the Smithsonian Institution, to be used in a general work on American Ornithology, and in payment for services rendered in editing and partly writing the survey volume.

The cuts of the Geology are stored at Cambridge, as are also the steel plates of the Paleontology.

The lithographic drawings of the two volumes of the Paleontology have been erased from the stones. The cuts of the 8 vo. edition of the Guide Book have been electrotyped and soldered into the pages.

The lithographic stones of the maps are all in charge of J. Bien, New York City, and are as follows:

Map of the Vicinity of the Bay of San Francisco, two stones, weight eight hundred and five pounds, value two hundred and forty-one dollars and fifty cents.

Map of the Sierra Nevadas, adjacent to the Yosemite, one stone, weight two hundred and fifty pounds, value seventy-five dollars.

Map of the Yosemite Valley, one hundred and ninety-five pounds, value fifty dollars and fifty cents.

Map of Central California, southwest quarter, one stone, two hundred and eighty-seven pounds, value eighty-six dollars and ten cents.

The above designated stones belong to the State, and those which follow are such as have not yet been purchased, as stones, although in use at present for the survey maps:

Map of California and Nevada, four stones.

Map of Central California, three stones.

Map of Auriferous Gravel Deposits, two stones.

Map of Peninsula of San Francisco, one stone.

The cost of these stones would not be far from fifteen hundred dollars, and they will be immediately purchased in case a farther appropriation is made for the survey. There is an insurance of six thousand dollars on the maps at Bien's establishment belonging to the survey, in two new York offices, the policies expiring next September.

4.—PRINTED STOCK.

The stock of printed publications is distributed nearly as follows:

At Sherman & Co's., Philadelphia—Geology, Vol. I (in sheets), 125; Paleontology, Vol. I (folded and stitched, 398, in paper covers.)

At Welch, Bigelow & Co's., Cambridge—Ornithology, Vol. I (in sheets) 506; Yosemite Guide Book, 8 vo. (in sheets), 492; Paleontology, Vol. II (in sheets), 114; Paleontology, Vol. II (bound), 23.

At Little, Brown & Co's., Boston (on sale)—Geology, Vol. I, 17; Ornithology, Vol. I, 85; Paleontology, Vol. I, 25; Paleontology, Vol. II, 9; Yosemite Guide Book, 8 vo., 33; Yosemite Guide Book, 16 mo., 41.

At Payot, Upham & Co's., San Francisco—Geology, I, 2; Paleontology, I, 3; Paleontology, II, 3; Ornithology, I, 4; Yosemite Guide Book, 8 vo., 5; Yosemite Guide Book, 16 mo., 27.

At the office of the Survey—Geology, Vol. I, 54; Paleontology, Vol. I, 34; Paleontology, Vol. II, 30; Ornithology, Vol. I, 50; Yosemite Guide Book, 8 vo., 60; Catalogue of Mollusca, 16; Catalogue of Fossils, Part II, 25; Mining Statistics, Part I, 100; Map of Bay of San Francisco, 328; Map of Central California, south half, 304.

There are only sixty-one copies left of the small guide book, and none of the State map.

5.—VOLUMES IN PROCESS OF PUBLICATION.

Geology, Vol. II; Botany; Tables of barometrical measurements of heights in California.

The above are now being electrotyped; the bills will be received when the volumes are all in type, and when paid for, the work will be the property of the State.

The illustrations of the Ornithology, Vols. II and III, completing the work, are nearly all done, and are stored at the Institution.

The drawings of the volume of fossil plants, which have not yet been fully paid for, are in the possession of Mr. L. Lesguereux, at Columbus, Ohio, who is preparing the work for publication. The work can be put to press as soon as the Legislature has authorized the continuance of the Survey.

6.—MANUSCRIPT MAPS AND OTHER MATERIALS NOT YET PUT IN SHAPE FOR PUBLICATION.

The original maps of the Survey are all at the office, in San Francisco, except such as are now engraving or partly engraved.

The northeast quarter of the "Central California Map" is in the engraver's hands, and it is expected that it will be done in about two months. The northwest sheet will then be immediately taken up, in case the Survey is continued.

The "Map of the Sierra Nevada, adjacent to the Yosemite," has had some additions and corrections made on it, and has been put in the engraver's hands, in order that a new edition may be got ready.

The "Map of the Auriferous Gravel Deposits" has just been completed, and only awaits the favorable action of the Legislature, when it shall be at once issued.

The most important incomplete map is that of a part of Southern California. It is my intention to have the finished portion of this photographed, or photo-lithographed, in order that the work may be placed beyond the reach of destruction by fire, or otherwise.

The principal unpublished geographical information in our possession is comprised in a series of eighty sheets, all on a scale of two miles to the inch, and which are kept at the office of the Survey.

The gentlemen engaged on the work of the Botany are furnishing the manuscript to the printer as fast as it can be set up. The manuscript of the second volume of the Geology is all in the printer's hands, so far as ready, including about half the volume. The remainder will be prepared as rapidly as possible, after favorable action on the Survey by the Legislature, and the volume can then be speedily issued. The only delay will be that required to collect the latest and fullest information on some points connected with the economical geology.

REPORT

OF

COMMITTEE ON EDUCATION.

G. H. SPRINGER.....STATE PRINTER.

REPORT.

MR. SPEAKER: Your Committee on Education report that we have visited the University of California; the Institution for the Deaf, Dumb, and Blind; and also the State Normal School. We first speak of the the University. We refer you, Mr. Speaker, and the members of this House, to the biennial report of the Regents of that institution for full particulars with regard to the site, buildings, laboratories, philosophical apparatus, museum, library, donations, number of Professors, students, etc.

We found President Gilman at his post and actively at work; visited all the departments and class rooms, and found the Professors faithfully discharging their duties, as far as we might judge from the limited time at our disposal. We were well pleased with the appointments of the class rooms, assembly room, armory hall, President's room, ladies' parlor, laboratories, art gallery, etc., and think that the arrangements could hardly be better for the purposes intended. Students appeared happy and contented, although their private dormitories were not of the first class. Suitable buildings should be at once erected for the accommodation of the Professors, and a club house for students upon the University grounds.

At present, both Professors and students, many of them, are compelled to live at Oakland, five miles distant, or to provide themselves, at great disadvantage, with accommodations at or near Berkeley. "The entire energy of the University should be concentrated in and around its scholastic home." In addition to these, farm buildings, farming implements, teams, etc., are badly needed. The completion of the central building according to the original plan is a felt necessity in accomplishing the great work of the University; for in the absence of suitable rooms for the present museum and library, it was thought necessary to occupy, for this purpose, a part of the College of Agriculture, a building designed to supply the wants of this department, as is indicated by the appropriate and beautiful emblems which adorn its outer walls. In this exigency, the entire agricultural department is forced into the limited space of the north half of the basement of this splendid structure, thus placing the most prominent department of the State University in a subordinate position it was never intended to occupy. Here we reach a question concerning which there are differences of opinion: Whether agricultural colleges in the United States are failures; and whether any attempt to establish one in California would be a failure, and whether the

Agricultural College of the University should only be a feature, or *the* feature. We shall as briefly as possible present such statistics from the Department of Agriculture, for eighteen hundred and seventy-two, as will throw light upon this subject and aid us in forming our conclusions.

There are now, in thirty-five States, thirty-eight industrial institutions, and all except six are in active operation, attended by more than three thousand students, a large portion of whom are pursuing agricultural and mechanical studies, under the care and instruction of more than three hundred and fifty Professors. The Agricultural College of Alabama has two hundred acres of land, good college buildings and apparatus, one hundred and three students, thirty-nine of whom are pursuing agricultural and mechanical studies.

Arkansas Industrial University has a farm of one hundred and sixty acres, and one hundred and eighty-three students, of whom fifty are in the agricultural and mechanical course.

Illinois Industrial University has an experimental farm of two hundred and thirteen, and a model farm of four hundred and ten acres, with three hundred and eighty-one students—males, three hundred and twenty-eight; females, fifty-three. In agricultural course, sixty-eight; architectural, four; chemical, fourteen; civil engineering, forty-five, commercial, four; electric, eighty-four; horticultural, eleven; literature and science, forty-four; mechanical engineering, thirty-three; military, fifteen; mining engineering, three; unassigned, forty-five.

The Agricultural College of Indiana will soon be in operation; has a farm of one hundred and eighty-four acres.

Iowa Agricultural College has a farm of seven hundred and ten acres, devoted to nearly all kinds of fruits, shrubs, grains, and stock, and has two hundred and sixty-five students. The graduating class for eighteen hundred and seventy-two contained twenty-six, of whom seventeen were in the agricultural course.

Kansas Agricultural College has two hundred and sixty acres, also devoted to nearly all kinds of fruits, grains, stock, etc., suited to that latitude, with two hundred students under practical instruction.

Kentucky Agricultural College has two hundred and twenty-five acres of land, with fine stock, fruit, etc., and two hundred and seventeen students. Nineteen twentieths of all the labor on the farm was done by the students, for which they received pay. Live stock on the farm valued at five thousand dollars; crop valuation, five thousand dollars.

Maryland Agricultural College has a fine farm, animals, fruits, grains, one thousand four hundred and eighty-five bushels of corn, one hundred and twenty one bushels wheat, two hundred and fifty bushels oats, etc., and one hundred and forty-seven students.

Massachusetts Agricultural College has three hundred and eighty-four acres, raised four hundred and eighty bushels shelled corn, five hundred bushels potatoes, forty-eight tons sugar beets, one hundred bushels rye, fifty bushels barley, three hundred bushels of oats, two tons of millet, three hundred tons of apples, and two hundred and eight tons hay, with one hundred and seventy-one students laboring six hours each week on the farm, during intervals of study, under practical instruction.

Institute of Technology at Boston has three hundred and fifty-six students.

Agricultural College of Michigan has a good farm, well cultivated, and devoted to the various grains, fruits, plants, etc. Special attention given to the improved varieties of stock, cattle, sheep, and hogs. Num-

ber of students, one hundred and thirty-one, who perform four fifths of the farm labor.

Minnesota College of Agriculture and Mechanical Arts has a good farm under cultivation. Number of students, three hundred and fifty-four; of this number, one hundred and seventeen were pursuing agricultural or mechanical studies.

College of Agriculture and Mechanical Arts, Mississippi, has one hundred and ten acres of land; forty-two students receiving practical instruction from the Professor of Agriculture.

Missouri Agricultural and Mechanical College has six hundred acres, well cultivated; best varieties of blooded stock; raised large quantities of corn, oats, potatoes, hay, grapes, etc. Number of students, three hundred and twenty-two, who are instructed in practical agriculture, and have performed three fourths of the labor on the farm.

College of Agriculture, University of Nebraska, has a farm of four hundred and eighty acres. Number of students, one hundred and thirty, with twenty-five in agricultural department.

Dartmouth College has four hundred and eight students. The Commissioner of Agriculture says: "The number of students in this college has nearly doubled during the present year" (1872). Whether this increase is attributable, in any degree, to the establishment of the College of Agriculture and Mechanic Arts with the college proper, he does not say.

The Scientific School and School of Agriculture, New Brunswick, New Jersey, has fifty students.

Cornell University Agricultural College, New York, has a farm of two hundred acres, well cultivated, raising, already, all kinds of fruits, grains, etc., common to the climate. Number of students, five hundred and twenty-five; two hundred and seven in the agricultural department. It has been stated by those high in position in the department of learning in California, that there were but fifteen in the agricultural department of this University in eighteen hundred and seventy-two. Somebody is mistaken.

Even in Oregon, the Agricultural College has one hundred and sixty-five students, with twenty-two in the Department of Agriculture and Mechanics.

Agricultural College of Pennsylvania has a very fine college farm of three hundred acres, and three experimental farms, each containing one hundred acres. The course of study has been scientific, experimental, and practical. Number of students, one hundred and fifty.

University of Wisconsin has five hundred and seventeen students; ninety-three in the agricultural and one hundred and thirty-nine in the female college.

From the foregoing extracts, it would appear that the agricultural colleges of the various States have been a success, when consideration is taken of the time they have been organized, and the prejudice existing in many of our higher institutions of learning, not only against labor, agricultural or mechanical, but also against the establishment of agricultural colleges, as such, in which the farmer and mechanic might receive a thoroughly scientific and practical education for his calling. In our opinion, the indisputable facts herein contained from such a source should settle this question of success beyond controversy. We think we are warranted in saying that these colleges may be regarded, everything considered, not only as a gratifying success, but as a means

of lessening the distance in the educational work between the higher and lower, the richer and poorer classes of the community, and establishing a grand, broad, and beautiful field upon which all may meet and take an even start in life's great race. Until this is done, until labor is made honorable, and can go hand in hand with study and science, we shall not have, comprehensively considered, systematically educated men, nor will agriculture or the mechanic arts be regarded in their true light, as the real source of a nation's greatness.

The time has come when the farmer and mechanic, and their sons, must have equal opportunities, and be as thoroughly educated in their honorable and responsible callings as the lawyer, physician, or clergyman in their professions.

These facts are fully realized in Europe. Hence it is that seventy-one "experiment stations," or agricultural schools, have been established for the development of the laws of vegetable and animal production, and including applied chemistry and physiology, as applied to the growth and nutrition of plants and animals—experiments, in fact, in all departments of desirable agricultural knowledge.

No intelligent man, in this day, will deny that early education is a great help to success in any sphere of life. Whether he be merchant or farmer, lawyer, doctor, or minister, each in the practice of his daily calling, constantly feels the advantages of early training, and realizes its aid in enabling him to grapple the more successfully with the stern realities of life. It is, therefore, the first dictate of common sense that the plan of education should be graded, not only to the capacity of the student, but in view of the business which he anticipates will occupy his future life. It is only within a few years the necessity to educate the farmer did at all attract public attention. It was commonly conceded that to till the soil was a mere operation of brute force, that required no other direction than that which belonged to the physical force of the body. It did not enter into the computation of the necessities of a farmer's knowledge, that the earth was a set of mouths and lungs, which breathe, feed, and live, with powers of attraction and repulsion, affected by heat, cold, and moisture; that seeds germinate root, and grow, and that their growth is a thing of life, susceptible of improvement and degeneracy, and that their names, genus, and character are as well defined and classified as are men and animals, who live, breathe, and feed in but another sphere of creation. But now it has attracted the attention of philosopher and statesman, of mechanic and laborer, that inasmuch as to till the soil is the occupation of about one half of the whole population of the world, the mind that gives the right direction to this immense work must be an educated mind; that such education should point to the kind of knowledge which is best adapted and most profitable for the attainment of success in the end.

The appreciation of these views is strongly marked in the action of the National Congress in the passage of the Act of eighteen hundred and sixty-two, which provides the means for the establishment of an Agricultural College in every State of the Union. This liberal provision manifestly recognizes the necessity and points to the education of the farmer. Experience, moreover, has demonstrated that the purely literary institutions of the country are ill-adapted to the farmer's wants; that their teaching was the education of youth, to a certain unfitness for the pursuit of an agricultural life, storing him with that kind of knowledge which was ill-adapted to his eminently practical occupation. A few years of this college training and the youthful farmer's son was

turned into a path of thought and habit, which made uncongenial to him the domestic employments of the farm and shop, and returning home a graduate in science and the classics, after a few years absence, he finds there no place for him.

Not so the boy whose course of education has not turned his mind from the first impressions which the farm and shop made upon him. At an agricultural college he is taught sufficiently in exact science to enable him to hold a respectable position in the practical walks of life; to know the composition of the earth and of the plants growing upon it; how they live and have their being, and with his own hands habitually dealing with nature and molding God's creations into higher forms of production, as well as of loveliness. This, while it breathes into the body the breath of health, is the delightful work of the world; a work of which the mind never wearies, only because the sources of inquiry and mystery of result are inexhaustible.

The boy whose mind has thus been stored with scientific knowledge of the art upon which he is soon to enter, and whose hands have been taught to practically apply that knowledge to this important work of the world, graduates and returns to the paternal home, feeling that his study has not been in vain, but that, grown to the stature of man, he is about to take his place in the march of agricultural progress, and afford to those around him a living example of the value of agricultural science.

We are not to be understood as attempting to detract in the slightest from the deservedly high estimate in which the purely literary institutions of the land are held. No American can forget or fail to appreciate the mark which their graduates make among the learned professions; the distinction they attain as scholars and statesmen, and how essential is their teaching to the honor and dignity of the republic.

The impression we would make, is that a different course of study, extending over a separate and even wider field, better adapted to the practical operations of every-day life, is of still greater importance and better calculated to advance the great interests of mankind in which farmer and mechanic are engaged.

While we do not undervalue what the State has done in the erection of buildings of which she is justly proud; while rejoicing that the doors of the University have been opened alike to both sexes, willing to cheerfully coöperate in establishing a high literary standard therein; while heartily sanctioning the organization of the military department and labor corps, congratulating those upon whom the duty devolved upon their success in securing a faculty composed of zealous and able men, pleased as we are to record the fact that, as a scientific and literary institution of its age, it is a success (and every effort should be made to increase its capacity for usefulness); yet we also believe that one of the highest and, perhaps *the* first and highest, employments of men, is to feed, clothe, and shelter the children of men, and, therefore, we ask that the agricultural facilities of the University be increased. We believe, from the most reliable information we could obtain, fortified by our personal observation, that a *very small* fraction of the teaching force of the University, as well of the people's money appropriated, has been devoted to the Agricultural Department. It may be said that no more *ought* to be applied with the small number of students. Will the number ever increase without better facilities are offered? A farm for practical training should be set apart at once. Students need science, it is true; but acquired science must be made practical otherwise. The

book botanist cannot tell one kind of rose from another; neither can the book professor of natural history distinguish one breed of cows from another. All admit that the Professor of Agriculture at the University is not only a scientist, but that he has had years of experience, and is a thoroughly practical instructor. Grounds should be at once set apart for experimental purposes. The Agricultural Professor should live on the ground, and the students allowed to labor, thereby applying science under direction of the instructors. While it may be well to have a grand ideal University, we cannot and must not forget that applied science will be far more profitable to us as a people than merely theoretical science. We understand that those having authority failed to carry into effect propositions, made two or three years ago, by which the Professor of Agriculture might, on the ground at Berkeley, give the students practical instruction, and employ them, at a moderate price, in improving the grounds by planting trees and otherwise, thus aiding them in paying their way while receiving practical lessons in agriculture. The carrying out of this idea would, in our opinion, have proved materially beneficial to the Agricultural Department of the University. We are not disposed to attach blame in this connection, aware, as we are, that mistakes are sometimes made in inaugurating and carrying out other great enterprises.

THE BOARD OF REGENTS.

Another important matter presents itself for our consideration, viz.: Does the Board of Regents, as at present constituted, sufficiently represent the various portions and interests of the State? We have no controversy with the gentlemen composing the Board, for they are men of high standing and worth. The question is, do they sufficiently represent the whole State, to give the greatest power and efficiency to the University, in the carrying out of the plans and purposes contemplated in the organic Act?

If the question admits of an affirmative answer, then, we say, hands off. If not, then there can be no controversy, the case is clear; and we feel assured that a half dozen or more of the present Board would willingly resign in favor of representative men in different sections of the State, if they were persuaded that the University would be the gainer thereby. It may be said that the State is now as well represented as it could be under any plan proposed. We are of the decided opinion that no State educational institution, such as the University of California is designed to be, can be as prosperous and useful under the control of local men and interests, as when under the combined control of men representing the varied callings, interests, and sections of the entire State. The proposition, it seems to us, answers itself, and does not admit of discussion. We believe that such a change would greatly advance the best interests of the University.

UNION OF EDUCATIONAL INTERESTS.

We also believe that the best interests of education would be promoted by unifying the University with the other departments of State education. To this suggestion we invite special attention and thoughtful consideration, to the end that such steps may be taken, and such only, as shall look to the highest achievements of our educational forces.

This unity of control suggests, perhaps we may say implies, a more

immediate contiguity of locality in respect to the two leading State institutions of learning, viz.: the University and the Normal School. All things considered, these two institutions should be connected, or, more properly speaking, the Normal School should be a part of the University. A smaller number of professors and teachers would be needed then than now, and a consequent lessening of expenses would ensue. Again, if the Normal department were at Berkeley, the students would have all the advantages of apparatus, lectures, library, museum, etc., that the University students enjoy, all of which would be of great value to those who are training themselves to become teachers. In addition to the great advantages to be derived, in an educational point of view, from a union of the two institutions, the State would be the gainer financially, as will be seen by a glance at the following comparative table of expenses:

NORMAL SCHOOL AT SAN JOSE.

Current expenses next two years.....	\$40,000
For finishing building.....	40,000
Deficiency and philosophical apparatus.....	7,500
Improvement of grounds.....	10,000
Total expenses Normal School at San José.....	\$97,500

NORMAL SCHOOL AT BERKELEY.

Building, in connection with the University, with all needed normal and training class rooms, etc.....	\$40,000
Salary, two teachers, two years.....	12,000
Total for two years at Berkeley.....	\$52,000
Gain in favor of Berkeley for next two years.....	\$45,500

A very few years, and the Endowment Fund will pay all the professors needed at the University, including the Normal School Department. If the school remain where it now is, at least twenty thousand dollars per annum will be required for its support, and then the students could not, without another very large outlay, have advantages as at the University.

The conclusion, therefore, is irresistible, that the unification of these two institutions would benefit a great educational enterprise, and at the same time lessen the State expenditures. We have no words of complaint against the enterprising City of San José; no fault to find with the Trustees of the State Normal School; no controversy with the business men of San José, none whatever.

If the University were at San José, and the Normal School at Berkeley, we would say remove the school to San José; and only then, as in

this case, because we should believe that the interests of education would be subserved. We must not be understood as conveying an intimation even that the Normal School at San José is not well managed under all the accompanying conditions; on the contrary, we say most emphatically that its internal workings, under the supervision of Professor Allen, so far as he has the *materials* for working, are admirable and thorough. Perhaps it is safe to say that they could not well be improved. The pupils are happy, prompt in duty, and thoroughly drilled; the teachers active, thorough, willing, appreciating the responsibility of the positions they occupy.

The appropriations asked for should be made, if the school remains where it now is.

INSTITUTION FOR THE DEAF, DUMB, AND BLIND.

Your committee found Professor Wilkinson at his post, hard at work teaching the blind to see, and the deaf to hear; not as the oculist by removing the cataract, or the aurist operating upon the tympanum, but teaching them through the mind to see through the cataract, and hear where all is silence.

INSTRUCTION.

Your committee paid particular attention to the department of instruction, and were surprised at the proficiency exhibited by these children living in a world of silence and darkness. Reading by sense of touch we heard, which would have been creditable to pupils of the Normal School. Questions in arithmetic, involving the principles of interest and percentage, were given by the committee, and worked by the blind children with facility and correctness. Ingenuity has devised apparatus by which reading, writing, arithmetic, and geography are brought within the reach of those for whom the sense of touch must do the duty of sight. Music, vocal and instrumental, is taught to all who give evidence of talent, not simply as a matter of pleasure, but also one of profit. Indeed, the whole training in this institution seems adapted to the development of those powers and faculties which will tend to the promotion, in the highest degree, of the future well-being of these unfortunates.

Passing to the class rooms of the deaf and dumb, we found the same evidences of thorough and faithful instruction imparted through the medium of a language novel to us, but expressive and beautiful. Whoever has witnessed the rendering of the Lord's Prayer by the female members of the school, must have acquired a new conception of its meaning. Various illustrations of this language, methods of instruction, and of attainments in the studies of the prescribed course, were furnished the committee. We were especially pleased at the eagerness and vivacity with which the pupils performed their exercises. Recitation and study seemed a delight rather than an irksome task. Their whole demeanor indicated that for them the ways of knowledge are made "paths of pleasantness."

DISCIPLINE.

The attention of the committee was called to the method of discipline used as a stimulus and corrective: At the end of each month, the pupils

are assembled in chapel, where the record of each is read to all. Those who have been perfect in deportment and attendance, and up to ninety per cent in their studies, receive a ticket, which he or she can send home. The names are also placed upon framed lithographed cards, and hung in the front hall, where visitors can see them. At the close of the year a similar roll of honor is given each pupil to take home, stating how many times he or she has been on the Institution monthly roll. We found about sixty per cent of the whole school upon this honorable roll, and were informed by the Principal that this mild and gentle measure was nearly all that was necessary for effective discipline.

BUILDINGS AND GROUNDS.

The buildings of the institution are admirably adapted to its purposes. It is an imposing edifice of gray stone, secured on or near the grounds. The exterior is of a pleasing style of architecture, and the interior light and cheerful. The site is all that could be desired, in a sanitary point of view, and the eye is gratified in gazing at the beautiful prospect. The grounds, however, are in an unfinished state. The comforts, profits, and conveniences of the inmates, to arise from the proper improvement of the grounds, no less than the dignity of the State, justify an appropriation of five thousand dollars for that purpose, and we recommend that it be made at the present session.

WORKSHOPS.

In the cabinet shop we found several pupils working upon different articles of furniture. Considerable proficiency in the mechanical arts is manifested. A large number of students are being taught trades, such as cabinet work, shoemaking, basket making, etc.

The organ frame was made by the pupils, and would be a credit to any skilled mechanic.

In the other department named, boots and shoes were well and handsomely made, and the basket manufactory was truly a wonder. We saw baskets of every size, quality, and style, useful and ornamental, deftly woven by the fingers of those who moved in utter darkness.

The furniture needed in the institution, the boots and shoes worn by Principal, teachers, and pupils, as well as by many outside the institution, and innumerable baskets, are turned out from the various departments. This in nowise interferes with the studies or recitations.

It is but proper for us to remark, before leaving this institution, that the efforts made to injure its reputation, as well as the reputation of Professor Wilkinson, the careful investigation consequent thereon, made by able gentleman, and the complete vindication of Professor Wilkinson and his administration, not only did not injure the institution but did prove that the State had and has the "right man in the right place." The last and crowning feature in the management of this institution, is the excellent moral influences brought to bear upon the pupils.

A. HIGBIE, Chairman.



REPORT

OF THE

BOARD OF COMMISSIONERS

OF THE

STATE NORMAL SCHOOL BUILDING.

REPORT.

To His Excellency,
NEWTON BOOTH,
Governor of California:

SIR: The Commissioners of the State Normal School Building have the honor to present the following statement:

According to the Act creating the Commission, their duties were two-fold:

First—To audit and allow claims against the State on account of the Normal School building which had been created prior to their appointment;

Second—To proceed with the construction of the building.

After due notice to claimants, they began the work of auditing claims, and continued it until the expiration of the time in which claims could be presented according to law, being careful to ascertain the validity of every claim allowed. These claims amounted to eighty-eight thousand five hundred and thirty-eight dollars and one cent (\$88,538 01), for which orders were issued on the State Controller. At the same time they commenced procuring material and employing workmen for the construction and completion of the building. Bids were advertised for material, and contracts awarded to the lowest responsible bidders. Workmen were employed at the usual rates. In each department of labor a foreman was appointed, to *work with* and *oversee* the men in his department, to whom was paid an advance on regular wages. Accounts were kept with the workmen individually, and orders paid to them personally.

The Fund from which we were entitled to draw consisted of the appropriation of seventy-five thousand dollars (\$75,000) for each of the two fiscal years, and a balance of a few thousand dollars (the exact amount we could never ascertain) of delinquent taxes of the previous year.

As the Normal School was, at the time, accommodated in one of the city school buildings, and as the rooms occupied by it were needed by the city, we aimed first to finish so much of the building as would accommodate the Normal School. This was accomplished, and the school was moved into the building in about two months from the time our work was commenced.

In accordance with the Act under which we were working, we commenced drawing orders on the Controller for interest-bearing warrants,

which the Controller refused to issue, on the ground that no provision had been made by law for the payment of the interest. Contracts had been let, material furnished, and labor performed, and payments had, in some way, to be made.

By adding a percentage until such time as there would be money in the State Treasury to meet the warrants, in lieu of interest, we were able to satisfy all concerned, and to proceed with the work.

After expending an amount closely approximating the amount in the State Normal School Building Fund, we suspended the work, after carefully storing the material on hand.

We present herewith:

First—A general description of the building;

Second—Memorandum of its condition when we took possession, the amount of work done by us, and its condition when we suspended work; and,

Third—Statement of expenditures.

Respectfully submitted.

J. A. QUIMBY,
T. H. SINEX,
CHAS. WELTE,

Commissioners State Normal School Building.

SAN JOSE, November 15th, 1873.

GENERAL DESCRIPTION

OF THE

STATE NORMAL SCHOOL BUILDING.

The State Normal School building is located in the center of Washington Square, San José, which covers nearly twenty-nine acres of land. The building, including its verandas, covers an area of twenty thousand five hundred and twelve square feet; and, including the stairs, the space covered by it is more than half an acre.

PRINCIPAL MATERIALS USED IN THE CONSTRUCTION OF THE BUILDING.

The foundation is of concrete. All walls and partitions of basement, vaults, and chimneys, are of hard burned brick, and all above basement wall is principally built of wood. All roofs are covered with tin; all floors throughout the entire building are double and deafened, and all walls and ceilings are plastered and hard finished.

GENERAL DIMENSIONS.

The building has a front of one hundred and seventy-two feet on Fourth street, divided into three parts, as follows:

The center, or main part, is sixty-eight feet wide by one hundred and sixty feet deep. Each of the wings front fifty-two feet on Fourth street, and the northern seventy feet on San Fernando, and the southern seventy feet on San Carlos street.

The concrete foundation extends three feet below and three feet above the ground level. The basement floor is four feet above the ground level. All around the building the ground is to be raised four feet higher.

The basement story is ten feet high in the clear.

The principal story is seventeen feet high in the clear.

The front part of second story, main building, is fourteen feet, and the rear part forty-one feet high in the clear.

The front part of third story of main building is twenty-five feet high in the clear.

The attic stories of both wings are fourteen feet high in the clear.

The clock tower, which is over the center of main building, is twenty-two feet square and one hundred and fifty-two feet six inches high above the ground level.

The main building is seventy-six feet high to the top of main cornice, and eighty-nine feet to the top of ridge of roof.

The wings, which are adorned with Mansard roofs, are fifty-five feet

high to the top of main cornice, and sixty-seven feet to the top of the roof.

DIVISION OF FLOORS.

The basement has two playrooms, one sixty-five by one hundred and two feet, the other thirty-one by fifty-six feet, with a corridor twenty-two by sixty-five feet between them. Two hallways, ten by fifty-two feet, running through the centre of both wings, lead to the aforesaid corridor of main building. The basement also contains the laboratory and chemistry room, rooms for heating apparatus, dust, ashes, and fuel; rooms for the janitors, a large vault for the safe keeping of valuables, toilet and wash rooms, and two large rooms for water closets.

The principal story contains two large parlors, five class-rooms twenty-eight by forty feet, with proper size anterooms; offices for Clerk and Principal; rooms for records, reference library, apparatus, wash and toilet rooms, and two rooms for water closets.

The second story contains three class and recitation rooms, twenty-eight by forty-two feet, with proper size anterooms attached; music room twenty by twenty-eight feet; museum twenty-eight by thirty feet; proper size wash and toilet rooms, and two large rooms for water closets. On this floor is the normal school hall, with gallery. This hall has a height of forty-one feet in the clear, and a platform twenty feet wide in the center and forty-four feet in length. The hall will seat from nine hundred to one thousand persons comfortably.

Third story: In the front part of the main building is the principal library, which is thirty-three feet wide by sixty-six feet long, and twenty-five feet high. The rear part of this story contains the gallery of the main hall, and the stairs and passages leading to it. The attic stories of wings contain halls for societies and gymnastic exercise, wash and toilet rooms, etc.

The corridors and passages are eight, ten, and twelve feet wide in all of the three stories and basement, except the principal corridor, in which are the principal stairs, which is twenty-three by sixty-six feet, running through all the stories.

STAIRS.

Six flights of stairs give access to the principal story from the outside. The two main flights are thirty-six feet wide, and each lands on a portico sixteen by sixty-eight feet. Two others are twelve feet wide, and land on porticos ten by twenty feet. The other two flights are eighteen feet wide, and land on porticos sixteen by twenty feet. Four flights of stairs lead from the basement to the principal floor; four flights thence to second and third floors; two flights from third floor up to the tower; and one thence up to the top of tower.

THE VENTILATION

Throughout the entire building is in accordance with the most approved plan of modern invention.

HEATING.

According to the original plans, the whole building was to be heated by either hot water or steam, for either of which ample provision had been

made, and the two parlors to have mantels and grates in addition; but at present the building is provided with flues—one for each room—to receive stoves for heating, which were ordered by the Board of Trustees and partly constructed before the present Commissioners took charge of the work.

WATER.

The building is supplied with water from two large tanks disconnected from each other, so that an accident to one will not interfere with the other, and in the event of an accident to the main supply pipe, there will be sufficient in the tanks for present use. The building is also provided with fifteen fire apparatus, to be supplied with hose for use in case of fire; and four large hydrant-stacks are placed beneath the stairs of the four principal entrances. The main supply pipe is five inches in diameter in the clear, and the supply pipes for the four hydrants are three inches in diameter.

LIGHT.

During the day no inconvenience will be felt from want of light, as windows are numerous, and at night the entire building will be lighted by gas, for which ample provision has been made.

SEWERAGE.

The system of sewerage is deemed perfect.

The corner-stone was laid on the twentieth day of October, eighteen hundred and seventy, under the auspices of the Masonic fraternity, the Grand Lodge of this State conducting the ceremonies.

MEMORANDUM

OF THE CONDITION OF THE NORMAL SCHOOL BUILDING WHEN
TAKEN POSSESSION OF BY THE PRESENT BOARD OF COMMISSIONERS,
AND THE AMOUNT OF WORK DONE.

Material on hand.—A small quantity of lumber in the yard; part of the lumber for stairs, stored in the building; some plumbing material and a small quantity of paint and oil—most of which was not paid for.

The whole building was inclosed, but no windows or doors were put in, except windows in basement, nailed in place, and those not paid for. No outside stairs were put up; a few steps had, however, been nailed together and there was some material on hand for others.

That part of the outside of the building that was finished had received one coat of paint, except the tower, on which the painting was nearly finished.

The interior of the building was in the following condition:

About two thirds of the floor of the entire building was laid, and most of the partition walls were put up.

A portion of the ceiling of the large room in basement was finished.

About two thirds of the walls and ceilings of the entire building were fired, and a very little of the lathing was done.

Nothing was plastered in or outside.

None of the inside stairs were built; most of the lumber for them was on hand, but none for rails, balusters, or newel-posts. A very little work was done on the inside stairs.

No wainscoting, base, architraves, casings, or doorjams, were put up or set.

Nearly all of the gaspipes were laid, and almost all the supply pipes for the water throughout the building were put in.

Also, most all of the waste and soil pipes were put in; some plumbing materials were on hand. No sky or ceiling lights were put in; and none of the ornamental vases and urns, for the verandas and tower, were put up.

We have built all the outside stairs, put up iron railings on both sides of said stairs and around the verandas, wherever required, and, also, all the iron cresting on top of mansard roofs of both wings and tower.

We have painted all the roofs, the aforesaid outside stairs, iron railings, and crestings; also, all wood and tinwork, usually painted, on the exterior of both wings, together with the verandas and balconies, with one coat of paint. And all the other woodwork usually painted, on the exterior of the entire main building, we had painted with three good coats of paint, in addition to the one which was on before, and two coats of sand.

We had all the floors laid and completed throughout the entire building; also, all the furring put on all walls and partitions and ceilings

throughout, and the whole and entire building lathed; that is, what was intended to be lathed.

In regard to plastering, the following has been done:

The two passages and corridors of basement, and two large rooms are finished, having three coats of plaster.

The toilet rooms and apartments for water closets have two coats, the balance of basement is not plastered at all.

In the entire principal story the plastering is finished, having three coats.

In the corridor of second story the plastering is finished, having three coats.

The front room of main building, in said story, and the whole exhibition hall have two coats; two large rooms, both passages, and two departments for water closets have but one coat; the balance is not plastered at all.

The corridor of third story, also the ceiling of principal library hall, are finished, having three coats. The walls of said library hall have but two coats.

The smaller apartments of said story, and all rooms and apartments of the attic story of both wings are not plastered at all.

The easterly corridor, from principal story to third story (in rear of the exhibition hall), is finished, having received three coats of plastering.

We put up four flights of stairs, from the basement to the principal story, two of which are entirely finished, the other two need newel posts, rails, and balusters.

The two principal flights leading from the principal floor to second story are finished.

The two flights leading from second story to third story, and from there up to the tower; also, the two flights leading from the principal story, up through the easterly corridor to the gallery of the exhibition hall, are put up and ready to receive the rails, balusters, and newel posts.

The inside finish has been put up and completed, as follows:

The windows of the entire building are put in, and those of basement and principal story are hung, and secured by locks.

All the others are set and nailed in.

We purchased all inside blinds (except for the basement story).

Those of the principal story are hung and secured; also, some in the exhibition hall are hung and secured.

All the others are piled up in the building.

We purchased almost all the doors for the entire building, and those of basement and principal story are hung and secured.

All the others are piled up in the building.

All the windows and doors of the basement and principal story, also all the doors and windows of the exhibition hall are cased, and all the architraves are put on, also all the wainscoting of said stories and hall is put on.

We finished the whole ceiling of the basement with narrow flooring.

All the woodwork, usually painted, of basement story and toilet rooms and apartments for water closets of principal story, the easterly corridor, from basement up to the gallery, and some of the woodwork of exhibition hall, received one coat of paint. All the other woodwork of

the entire principal story, usually painted, has received two coats of paint.

In the basement, we fitted up two apartments, each with six water closets; also, in the principal story we fitted up two apartments each with five water closets.

In the basement, we put up eight wash basins, and in the principal story, sixteen wash basins, with marble slabs.

The marble slabs for wash basins, to finish the entire building, are at the building.

Also, eight water closets, with porcelain bowls; nine porcelain urinals and ten wash basins, together with a number of basin cocks, and some other plumbing materials, are on hand.

We put up fifteen fire apparatus, ready to receive the hose (to be used in case of fire); also, four large hydrant stacks to connect with the fire engine, also in case of fire.

We put up the two tanks provided for supplying the building throughout with water, and we connected the main supply pipe with the main water pipe of the city with a five-inch cast iron pipe, over five hundred feet in length.

We put up all the ventilators throughout the building, according to the original plans, but they will not be very useful until a small furnace is put in each principal ventilator (as provided by the original plans), which have to be heated whenever required, so as to bring the air into circulation.

We made some of the chimney flues, which were already in the building, ready for the use of stoves; but we think the building ought to be heated according to the original plans, by either hot water or steam.

The plastering is to be finished. All the center pieces and ornamental brackets are wanting. The stairs of tower are to be built, and all the others are to be finished. The attic and tower stairs have to be inclosed.

A good deal of plumbing is to be done, and if the system of heating is not changed, then the chimney tops are to be finished.

Materials are wanted to complete the inside finish of second and third story, as also for attic story of wings.

The doors and blinds, which are on hand, are to be hung, and the hardware for them, as also for the windows, which are not hung, is wanted.

The painting, graining, and varnishing has to be done. The ceiling of exhibition hall ought to be finished with fresco paintings, and seats put in said hall.

The mantels of parlors are wanting. Gas fixtures to be put up throughout the building. Ten lantern stacks are to be put up on the newel posts of outside stairs; also, two on the inside stairs.

A large gaslight (so-called sun burner), is to be put up in the exhibition hall.

The outside of all basement walls are to be plastered, and the painting on the exterior is to be finished. A number of other things are wanted to finish and complete the building, and the ground around the building is to be filled in according to the plans.

EXPENDITURES.

Salaries and other expenses.	Amount.
Salaries of Commissioners, Architect, and General Foreman	\$5,471 02
Carpentering	9,317 31
Plastering	7,287 83
Plastering material.....	3,165 27
Painting	3,403 80
Painting material.....	1,687 84
Plumbing	1,354 15
Plumbing material.....	2,039 30
Tinning.....	755 80
Tinning material.....	411 65
Stair building	1,762 33
Mill work.....	6,635 34
Lumber.....	4,673 97
Iron work	3,089 60
Hardware.....	1,901 40
Glass	7,989 69
Watchmen	831 74
Water pipe and use of water.....	511 80
Freight and hauling.....	469 23
Printing and stationery.....	151 23
Legal advice and drawing contracts.....	458 32
Common labor.....	342 31
Insurance.....	864 02
Traveling expenses	105 69
Total on account of new work.....	\$64,680 64
Amount of old claims allowed.....	88,538 01
Grand total.....	\$153,218 65

BIENNIAL REPORT

OF THE

Board of Tide Land Commissioners

OF THE

STATE OF CALIFORNIA.

T. A. SPRINGER.....STATE PRINTER.

BIENNIAL REPORT

OF THE

BOARD OF TIDE LAND COMMISSIONERS.

SAN FRANCISCO, August 1st, 1873.

To His Excellency,
 NEWTON BOOTH,
Governor of California:

SIR: We have the honor to submit our biennial report of the survey and disposal of certain salt marsh and tide lands belonging to the State of California, under the Act of the Legislature entitled "An Act to survey and dispose of certain salt marsh and tide lands belonging to the State of California," approved March thirtieth, eighteen hundred and sixty-eight, and the Act supplementary thereto, approved April first, eighteen hundred and seventy.

SURVEYS.

An accurate hydrographic and topographic survey has been made, under the direction of Mr. G. F. Allardt, our late Chief Engineer, of the salt marsh and tide lands under the jurisdiction of this Board, embracing all the salt marsh and tide lands and lands lying under water, out to twenty feet depth, at lowest tide, situate in the City and County of San Francisco, and all the salt marsh and tide lands, out to nine feet depth, at lowest tide, within the limits of our jurisdiction, and situated in the several Counties of Marin, San Mateo, Alameda, and Contra Costa.

Detailed maps were made of all the lands surveyed, approved by the State Board and filed in this office, duplicates thereof having been filed with the Surveyor General, and with the Recorder of the City and County of San Francisco, as required by law.

Following is a tabular statement of the field work done:

Length of meanders and base lines run.....	457,56 miles.
Length of line sounded.....	1,353,00 miles.
Number of soundings taken.....	61,294
Number of wooden monuments established.....	6,499
Number of granite monuments established.....	141

Total area surveyed.....	.....	65,200 acres.
Area ascertained to be covered by State patents and legislative grants, and not subject to sale...	13,200 acres.	
Reserved for basins, canals, and tidal area for the purposes of navigation and commerce.....	33,200 acres.	
Disposed of by Commissioners.....	18,552 acres.	
Remaining unsold.....	248 acres.	
		65,200 acres.

The field work was completed in April, eighteen hundred and seventy-two. The office work pertaining to the surveying department was fully completed the sixteenth of April, eighteen hundred and seventy-three, at which date Mr. Allardt tendered his resignation as Chief Engineer of the Tide Land Survey, which was duly accepted, and the following resolution unanimously adopted by this Board:

Resolved, That the faithful and efficient manner in which Mr. Allardt has performed the arduous and responsible duties of his office for the past five years, reflects great credit upon his professional and executive abilities as a civil engineer, and entitles him to the thanks of this Board, and that in retiring from office he has our best wishes for his future success.

UNFINISHED WORK.

In January, eighteen hundred and seventy-two, we found that a large amount of unfinished business had accumulated, such as the completion of maps, writing up field notes and records, adjusting private claims, etc., which demanded our immediate attention. The cause of the accumulation may be attributed to the undue haste with which the auction sales had been pressed, not leaving sufficient interval between sales to bring the work up to date, and since that time the Secretary and Assistant have been engaged in making the voluminous records of sales and re-sales, in the several counties, and attending to the constant applications for information made by purchasers and other parties interested.

SALES.

The following auction, private, and compromise sales were concluded since our last biennial report, and twenty-five per cent of said sales

having been paid your Commissioners at the time of sale (except compromise sales, which were paid in full), as follows:

Time of sale.	Amount paid Commissioners.	Gross amount of sales.
Auction sale, July, 1871.....	\$5,070 89	\$20,283 56
Auction sale, September, 1871.....	11,520 24	46,080 96
Private sale, September, 1871.....	16,105 75	64,423 00
Private sale, October and November, 1871.....	52,615 13	210,460 52
Auction sale, December, 1871.....	11,884 20	47,536 80
Private sale, December, 1871, to March, 1872.....	1,878 66	7,514 64
Auction sale, July, 1872.....	10,743 32	42,973 28
Private sale, May and August, 1872.....	1,874 31	7,497 24
Auction sale, March, 1873.....	7,283 30	29,133 20
Compromise sales.....	60,779 32	60,779 32
Totals	\$179,755 12	\$536,682 52

At the close of each sale, a duplicate of the account sales, giving details of such sale, has been made out, certified to according to law, approved by the State Board, and filed with the State Controller.

DELINQUENTS.

According to the reports of the State Controller, made to this Commission, there are delinquent on third installment, sales of February, eighteen hundred and seventy-one, on third installment, sale of May, eighteen hundred and seventy-one, on third installment, sale of July, eighteen hundred and seventy-one, on second installment, sales of May and August, eighteen hundred and seventy-two, and on second installment, sale of July, eighteen hundred and seventy-two, the following amounts, interest included:

Sale of February, 1871.....	\$33,508 63
Sale of May, 1871.....	18,299 09
Sale of July, 1871.....	6,085 07
Sale of May and August, 1872.....	2,061 74
Sale of July, 1872.....	11,817 65
Total.....	\$71,772 18

Under the Act of March thirtieth, eighteen hundred and sixty-eight, and a decision of the Supreme Court in the case of *The People vs. B. F. Washington et al.*, (40 California Reports), this property is considered as unsold by the State, and it becomes the duty of this Commission to advertise and resell the same without delay. As purchasers usually delay payment up to the last moment, it has been the custom of the

Commission, immediately upon the receipt of the delinquent lists from State Controller, to send notice to each delinquent, informing him that his installment is now overdue, and unless the same be paid immediately, the property will be resold, as provided by law. This custom is now so well established, that purchasers seldom pay up until so notified, and even in that case, usually postpone payment until after the property is advertised for resale.

DEFERRED PAYMENTS.

The amount of deferred payments, bearing legal interest, yet to become due on the various sales, up to March, eighteen hundred and seventy-six (being three years from the date of the last sale), is as follows:

In November, 1873.....	\$18,527 35
In January, 1874.....	35,407 37
In February, 1874	36,901 02
In May, 1874.....	19,824 01
In July, 1874.....	6,592 17
In September, 1873 and 1874.....	28,800 59
In December, 1873 and 1874.....	29,710 50
In September, 1873 and 1874.....	40,264 37
In October and November, 1873 and 1874.....	131,537 82
In December and March, 1873 and 1874.....	4,696 65
In July, 1874 and 1875.....	26,858 30
In May and August, 1874 and 1875.....	4,685 77
In March, 1874, 1875, and 1876.....	26,219 88
Total.....	\$410,025 80

The greater portion of which amount will become delinquent, should the Commission, from any cause, be debarred from advertising and re-selling the property.

RECEIPTS.

	Amount of 25 per cent on sales paid to this commission, as per last report, Aug. 1st, 1871	\$304,741 18
1871.		
July	Payment 25 per cent from auction sale.....	5,070 89
September..	Payment 25 per cent from auction sale.....	11,520 24
September..	Payment 25 per cent from private sale.....	16,105 75
Oct., Nov...	Payment 25 per cent from private sale.....	52,615 18
December..	Payment 25 per cent from auction sale.....	11,884 20
1872.		
Dec. to Mh.	Payment 25 per cent from private sale.....	1,878 66
July	Payment 25 per cent from auction sale.....	10,743 32
May & Aug.	Payment 25 per cent from private sale.....	1,874 31
	Carried forward.....	\$416,433 73

RECEIPTS—Continued.

1873.	Brought forward.....	\$416,433 73
March.....	Payment 25 per cent from auction sale.....	7,283 30
	Amount of compromise sales (in full).....	60,779 32
	Total	\$484,496 35

DISBURSEMENTS.

1871.	Amount as per last report, August 31st, 1871.	\$185,477 24
July 31.....	Wages of surveying forces.....	4,320 07
July 31.....	Expenses of survey and office	932 79
July 31.....	Expenses of sale, July, 1871.....	2,850 95
August 31..	Wages of surveying forces.....	5,670 78
August 31..	Expenses of survey	1,141 12
August 31..	Expenses of office.....	312 85
October 2..	Wages of surveying forces.....	5,278 27
October 2..	Expenses of survey.....	1,011 99
October 2..	Expenses of office.....	440 00
October 2..	Expenses of sale of September.....	3,016 70
October 31.	Wages of surveying forces.....	4,608 86
October 31.	Expenses of survey.....	1,720 63
October 31.	Expenses of sale and office.....	1,692 63
Nov. 29	Wages of surveying forces.....	2,369 23
Nov. 29	Expenses of survey.....	629 99
Nov. 29	Expenses of office, advertising, etc.....	828 86
Dec. 29	Wages of surveying forces.....	2,045 58
Dec. 29	Expenses of survey.....	291 55
Dec. 29	Expenses of office and sale	4,480 70
1872.		
Jan. 27.....	Wages of surveying forces.....	1,497 31
Jan. 27.....	Expenses of survey and office.....	548 43
Jan. 29.....	Advertising and copying.....	65 00
Feb. 28.....	Pay roll for February.....	1,626 92
Feb. 28.....	Expenses of office.....	172 00
March 28....	Pay roll for March.....	1,685 00
March 28....	Expenses of office, etc.....	188 65
April 29.....	Pay roll for April.....	1,709 00
April 29.....	Expenses of survey and office.....	583 90
May 30.....	Pay roll for May.....	1,236 54
May 30.....	Expenses of office, etc.....	189 25
June 27.....	Pay roll for June.....	1,266 00
June 27.....	Expenses of office, etc.....	558 90
July 31.....	Expenses of auction sale, July.....	4,833 54
	Carried forward.....	\$245,275 32

DISBURSEMENTS—Continued.

	Brought forward.....	\$245,275 32
July 31.....	Expenses of office and sale.....	319 76
July 31.....	Pay roll for July.....	1,175 42
August 27..	Pay roll for August.....	735 00
August 27..	Expenses of office.....	128 85
Sept. 30....	Pay roll for September.....	735 00
Sept. 30....	Expenses of office and sale.....	262 95
October 28.	Pay roll for October.....	535 00
October 28.	Expenses of office.....	177 70
Nov. 29....	Pay roll for November.....	535 00
Nov. 29....	Expenses of office.....	100 60
Dec. 30	Pay roll for December.....	535 00
Dec. 30	Expenses of office.....	134 25
1873.		
Jan. 30.....	Pay roll for January	735 90
Jan. 30.....	Expenses of office.....	178 70
Feb. 27.....	Pay roll for February	843 00
Feb. 27.....	Expenses of office.....	62 00
March 29...	Pay roll for March.....	795 00
March 29...	Expenses of office and sale.....	676 16
April 22....	Expenses of sale (March).....	5,549 50
April 30....	Pay roll for April.....	535 00
April 30....	Expenses of office and sale	350 55
May 31.....	Pay roll for May.....	205 00
June 30	Pay roll for June and office expenses.....	339 70
July 31.....	Pay roll for July and office expenses.....	271 25
	Salaries of three Commissioners for two years	14,400 00
	Salary of Secretary for two years.....	4,800 00
	Total	\$280,396 62
	Total amount of disbursements.....	\$280,396 62
	Balance deposited in State Treasury.....	194,924 26
	Cash on hand.....	9,175 47
		\$484,496 35

RECAPITULATION.

Total amount received from auction and private sales of salt marsh and tide lands—being the first installment of twenty-five per cent.....	\$423,717 03
Total amount received from compromise sales.....	60,779 32
	\$484,496 35

RECAPITULATION—Continued.

Total expenses as per last report.....	\$185,477 24
Total expenses since last report.....	94,919 38
	<hr/>
Balance deposited in State Treasury	\$280,396 62
Cash on hand.....	194,924 26
	9,175 47
	<hr/>
	\$484,496 35

SYNOPSIS OF FINANCIAL CONDITION, AUGUST 1st, 1873.

Cash derived from the sale of salt marsh and tide lands, as per Controller's Report for the	
Twenty-first fiscal year.....	\$228,642 38
Twenty-second fiscal year.....	150,312 31
Twenty-third fiscal year.....	335,956 60
Twenty-fourth fiscal year.....	256,851 26
	<hr/>
	\$971,762 55
Amount paid by H. B. Tichenor, under Act of Legisla- ture, approved April fourth, eighteen hundred and seventy, as appraised by this Board.....	21,525 00
Cash in hands of Commissioners.....	9,175 47
Deferred payments, over due, as per Controller's re- port.....	71,772 18
Deferred payments, bearing interest, to become due af- ter August first, eighteen hundred and seventy-three.	410,025 80
	<hr/>
Total proceeds	\$1,484,261 00
Total expense of Commission to date, as filed in detail in the office of Controller, and with Board of Ex- aminers, including surveys, salaries, advertising, auc- tioneer's commissions, outfit of survey and office, office work, expenses of litigation, etc.....	280,396 62
	<hr/>
Net proceeds.....	\$1,203,864 38

Under the present law, purchasers pay twenty-five (25) per cent to the Commissioners on the day of sale, and the balance in three annual installments of twenty-five per cent each.

In case of the nonpayment of any or either installment, the property becomes delinquent, and is subject to resale by the Commissioners.

Under this provision, it is evident that the duties of the Commission may, and in all probability would, extend over an indefinite term of years. For instance, the last installment for lands purchased at our last sale, in March, eighteen hundred and seventy-three, becomes due in March, eighteen hundred and seventy-six. Now, should the purchaser fail to pay his last installment, the property will be resold in eighteen hundred and seventy-six, and the last installment would then become due in eighteen hundred and seventy-nine. Should the second purchaser fail to pay his last installment, it will be again sold in eighteen hundred and seventy-nine, and the last installment will be due in eighteen hundred and eighty-two, in case of nonpayment of which, the property will be resold, for the third time, in eighteen hundred and eighty-two, and so on ad infinitum.

To obviate the difficulty, it is suggested that a law be enacted, at as early a day as practicable, providing that all sales shall hereafter be made for cash, in which case, the business of the Commission may be fully closed and completed some time in eighteen hundred and seventy-six.

COMPROMISES.

Under the fifth section of the Act of April first, eighteen hundred and seventy, the Commissioners were authorized to compromise with adverse claimants to State lands, the time of compromise expiring, by limitation, on the thirtieth of September, eighteen hundred and seventy-one.

Many claimants availed themselves of this provision of the law, but perhaps an equal number failed, either through absence, neglect, or ignorance of the law, to present their claims in time, and in consequence, the title to their property has become clouded, in comparison with their neighbors who, previous to the thirtieth of September, eighteen hundred and seventy-one, procured the State's title. Many of these claimants did not know their lands were covered by State title, until they were advertised for sale by this Board.

We would suggest that the time for compromise be extended to such time, and under such restrictions, as may be deemed just and proper.

The property subject to compromise is situated in the heart of the city, and in most cases is actually occupied by the claimants. Should the law be so framed as to favor actual occupants, no injustice could result, and the cloud of title to a valuable portion of the city would be effectually and finally removed.

There are also a few tracts in the counties of Marin, San Mateo, Alameda, and Contra Costa with like equitable claims, and proper cases for compromise. This, in the opinion of the Commissioners, is very important to the claimants, and should not be overlooked, as there is now no provision in the law for the perfecting of this class of titles.

OUTSIDE TIDE LANDS.

The limit of jurisdiction of this Board extends five miles beyond the exterior boundaries of the City and County of San Francisco. Outside of this limit, the State still owns valuable tide lands, which, under various Acts, have been reserved from general sale. They are situated, in

part, at Vallejo, Benicia, Humboldt, San Diego, and other seaport towns. Some suitable provision should be made for their final disposal, both in justice to the State and in order to remove the pretexts for future special legislation in regard to the same.

RECORDS OF THE COMMISSION.

Before the work of the Commission is completed, a suitable depository for its voluminous records should be determined upon. These records are invaluable, and are consulted almost daily by purchasers and parties interested, for which reason the depository should be accessible for all time to come.

All of which is respectfully submitted.

R. P. JOHNSON,
EDGAR BRIGGS,
C. M. STRATTON,

Board of Tide Land Commissioners.

J. M. CURRIER, Secretary.

REPORT OF THE STATE BOARD.

SAN FRANCISCO, August 1st, 1873.

Under the Act of March thirtieth, eighteen hundred and sixty-eight, the State Board of Tide Land Commissioners consisted of the Governor, President of the Chamber of Commerce, and Mayor of the City and County of San Francisco. Under the amendatory Act, approved April first, eighteen hundred and seventy, the State Board consists of the Governor, Surveyor General, and Controller of State, as now organized.

POWERS AND DUTIES.

The State Board have the power to make rules governing all sales made by the Tide Land Commissioners, and before any sale is deemed complete, it must be approved by this Board. All salaries, bills, and accounts, for expenses incurred by the Tide Land Commissioners, must be approved by the State Board.

SALES AND ACCOUNTS.

All sales made by the Tide Land Commissioners, as mentioned in their report, have, from time to time, been approved by the State Board. Also, all salaries, bills, and accounts, incurred by the Tide Land Commissioners, as given in detail in said report, have been duly approved at the regular monthly and special meetings of the State Board.

PRIVATE SALES.

At a regular meeting of the State Board, held at Sacramento on Monday, January sixth, eighteen hundred and seventy-three, the State Board refused to approve certain private, or compromise sales, made by the Tide Land Commissioners, in the several counties within their jurisdiction, holding that the power to make such sales in the City and County of San Francisco had expired by limitation, September thirtieth, eighteen hundred and seventy-one, and that the power to dispose of lands, either at private or compromise sales, was never extended to the counties outside of the City and County of San Francisco.

MAPS.

All maps, made by order of the Tide Land Commissioners, have been approved by the State Board, signed by the members of each Board, and duplicates thereof filed with the Surveyor General, at Sacramento, and the City and County Recorder, at San Francisco, as required by law. The original maps and field notes are retained in the office of the Tide Land Commissioners, at San Francisco.

All of which is most respectfully submitted.

J. M. CURRIER,
Secretary of State Board.

TESTIMONY

IN

CONTESTED ELECTION CASE

OF

GILDEA vs. FRASER.

T. A. SPRINGER.....STATE PRINTER.

CONTESTED ELECTION CASE OF GILDEA VS. FRASER,

BEFORE THE

SENATE COMMITTEE ON ELECTIONS.

PROCEEDINGS HAD JANUARY 22D, 1874.

Plaintiff offers in evidence an exhibit, in tabular form, showing the votes polled in El Dorado County for State Senator, at the general election held on Wednesday, September third, eighteen hundred and seventy-three, which said exhibit is hereto annexed and made a part hereof, marked "Exhibit A." The pencil marks thereon are to be counted, adding eighty votes to the total for Mr. Fraser for State Senator.

H. A. WEAVER was sworn as an expert, and testified as follows:

Examined by CREED HAYMOND, Esq.

Question—Where do you reside?

Answer—Sacramento.

Q.—What is your occupation?

A.—I am a printer.

Q.—How long have you been engaged in that business?

A.—Fifteen or sixteen years.

Q.—Have you examined section eleven hundred and ninety-one of the Political Code, to ascertain the requirements as regards election ballots?

A.—Yes, sir.

Q.—Have you, as a printer, ever printed tickets under the provisions of that section?

A.—I have.

Q.—State how many.

A.—I think not far from half a million.

(Mr. Haymond, in behalf of plaintiff, offers in evidence a ballot, which is annexed to and made a part hereof, marked "Exhibit B." Said ticket is here handed to witness.)

Q.—Look at that ticket and tell us wherein it differs, in any partic-

ular, from the provisions of section eleven hundred and ninety-one of the Political Code.

A.—I don't see any type here that the Code specifies shall be used.

Q.—How many kinds of type are there there?

A.—Three, sir.

Q.—Now, the type in the first line, of State Senator, what kind of type is that?

A.—That is nonpareil; it is called by printers nonpareil.

Q.—Take the name of the candidate, Thomas Fraser.

A.—It is small pica capitals.

Q.—Give us your opinion with regard to the spaces between other kinds of type on that ticket

A.—There seems to be about five (5) leads between the officer and the name of the office. This is the case down to the office of Constable, where there is another kind of type used.

Q.—What kind of type is used there?

A.—It is brevier, I think; I am sure it is brevier capitals.

Q.—What is the difference between brevier and small pica?

A.—Four sizes, Mr. Haymond.

Q.—What is the difference between single leads and the leads in that ticket?

A.—There are five leads there; not less than five. That would make a difference of one to five.

Q.—What is the difference between nonpareil capitals and long primer capitals—how many sizes?

A.—Four sizes between long primer and brevier; there are two sizes or kinds of type between long primer and brevier.

Q.—Now, fold that ticket crosswise four times from the center, so as to make the ballot three fourths of an inch in width. (Witness does so.) There are two ways in which it can be folded.

A.—Yes, sir.

Q.—Fold it the other way.

(Witness does so.)

A.—I have done that.

Q.—Now, as folded, can that ticket be distinguished, from the outside, from a ticket printed in accordance with section eleven hundred and ninety-one of the Political Code?

A.—No, sir; not if folded in this way.

[This is the regular way of folding.—REP.]

Q.—Now, fold it in the other way. (Witness complies.) Now, can it be distinguished from a ticket printed in accordance with section eleven hundred and ninety-one of the Political Code?

A.—Yes, sir.

Q.—How?

A.—It shows readily that the type is larger, in one instance; in another instance, the type shows through so you can tell.

Q.—By making the spaces between the lines larger than is required by the Code, will the character of the ticket be known by the impression on the outside?

A.—Not necessarily.

Cross-examined by PHILIP TEARE, Esq.

Q.—Now, you state that that ballot is not in conformity with section eleven hundred and ninety-one of the Political Code; do you

mean that it is only in regard to the printing of the type used, and the spacing?

A.—I have not measured this; I have no gauge with me. I do not think this ticket is twelve inches long and four inches wide. It seems a little short, though I don't state this as a fact.

Q.—Do you know the difference between pica and brevier, positively?

A.—Yes, sir.

Q.—Now you stated that you believed that the office of Constable was in brevier. Were you certain of that fact?

A.—I was certain it was neither long primer nor small pica. It is either brevier or nonpareil.

Q.—You don't know positively what kind of type it is?

A.—I know as well as anybody can possibly tell.

Q.—You stated that the spacing is four (4) leads instead of one?

A.—I said five (5).

Q.—Did you mean to be understood there are five (5) thin pieces used, or one lead equivalent to five (5)?

A.—As the space does not show, I don't know whether it was wood, lead, or iron. The space used is as five (5) to one (1).

Q.—If you use a lead consisting of a single piece, what is it called by printers?

A.—If it was a lead, it would be called a lead.

Q.—Are there single leads of that size?

A.—No, sir; I have never seen leads of that thickness?

Q.—What are these spaces usually made of—wood or iron?

A.—Generally of type metal, though sometimes wood is used, and sometimes iron; type metal is a composition.

Q.—Is this a single piece?

A.—I couldn't say by this ticket.

Q.—Examine that ticket, Mr. Weaver (hands witness a ballot), marked "No. 1." State what are the spacings between the designation of the officers of the Assembly?

A.—Between Assembly and W. E. Spencer there is nothing.

Q.—Is that in conformity with section eleven hundred and ninety-one of the Political Code?

A.—No, sir.

Q.—Does that require spacing?

A.—Yes, sir.

Q.—Can you enumerate from that ballot a number of instances in which it differs from that required by the provisions of the section of the Code referred to?

A.—I see six (6) distinct irregularities.

Q.—Mention them?

A.—"Harbor Commissioner" is in smaller type than the Code requires; "Paul Neuman" is larger; then comes a space other than the Code requires; the same irregularity occurs through the ticket, down to "Constables."

Q.—What I want are distinct irregularities; want of conformity to the Code.

A.—Those are all distinct irregularities. This name of "Road Overseer" is not printed in the middle of the ticket.

Q.—Are those all the irregularities you detect?

A.—All I perceive.

Q.—Please fold that on the reverse side (witness complies); fold it

four (4) times from the center. Can you detect from the outside of that ticket the nature of its contents?

A.—There is one line that shows.

Q.—Can you detect the character of the ticket from that irregularity?

A.—If I wanted to find out the character of that ticket, I could do so as it is now folded.

Q.—Look at this ticket (hands witness a ticket marked "No. 2") and see if you can see anything from the outside.

A.—I don't perceive anything irregular about it.

Q.—Now, you can fold it another way and still continue to have the printed matter outside, and fold it in the manner you spoke of.

(Witness does so.)

A.—I see nothing wrong.

Q.—You stated you printed half a million tickets or ballots. State if in that one half million tickets you have been engaged in printing, you have conformed to section eleven hundred and ninety-one of the Code?

A.—I won't swear to that.

Q.—State if one third of those tickets you have printed have conformed to that section, so far as spacing, type, etc., is concerned?

A.—I swear that all conformed to the Code. That is my positive statement.

Q.—You swear that every single type and every single space of those half million tickets were all in conformity to section eleven hundred and ninety-one of the Code?

A.—Positively.

Q.—Where have you been engaged in the business of printing?

A.—At Sacramento, 83 J street—H. A. Weaver & Co.

Q.—Have you printed tickets for Sacramento County?

A.—A great many.

Q.—Did you print any a year ago?

A.—Yes, sir.

Re-direct, by HAYMOND.

Q.—Mr. Weaver, you say there are six respects in which these tickets do not comply with the law. In what respect do these tickets conform to the Code?

A.—In no particular.

Q.—Has it been single-leaded in one instance where the names of candidates of the Assembly occur?

A.—That is the only respect in which it does comply.

Q.—With the exception of Constables, is there any difficulty for a printer to comply with the provisions of the Code in this matter?

A.—It is very simple.

Q.—Look at that ticket, folded thus, four (4) times from the center, to reduce it to the size required by the Code. By reason of the manner in which it is folded, can it be distinguished from a legal ballot?

A.—Yes, sir.

Cross-examined by TEARE.

Q.—State if that is the texture and color of paper required by the provisions of the Code? State what is your judgment with regard to the size, width, and length of that ticket?

Senator Turner—The best way to do would be to measure it.

Q.—From a casual inspection, would you discover the difference between that and an ordinary ballot?

A.—Not readily, without close inspection. It is just as plain to me now, however, that that is as irregular a ticket as can be.

Q.—Are you acquainted with Sacramento tickets of the last general election?

A.—Yes, sir.

Q.—Is that one of the kind used? (Shows witness a ticket marked "No. 1.")

A.—Yes, sir.

Q.—Did you print that ticket?

A.—I can't say.

Q.—What is your recollection?

A.—There were twenty-five or thirty (25 or 30) tickets in the field—possibly more. We printed thousands of tickets with Obed Harvey's name on, for instance, and the remainder of the ticket mixed. I think I did not print this ticket.

Q.—Is that ballot in conformity with the Code?

A.—Yes, sir.

Q.—In all respects?

A.—I should say so.

Q.—What kind of type is that in which is printed the name of Paul Neuman?

A.—Long primer capitals.

Q.—Are all other long primer capitals names of all other officers?

A.—I believe they are.

Q.—Did you have to make a minute measurement and inspection to determine exactly the character of type, spaces, etc.?

A.—I think we have to do so.

Q.—Is it necessary?

A.—Yes, sir.

Q.—Did you have to make a minute inspection and measurement? Could you tell that ticket without making a measurement with regard to its folding, and to determine its relative size?

A.—I could tell this type from other very easily.

Q.—Are there different sizes of long primer?

A.—I think not.

Q.—Is there any type that corresponds to that in appearance and size; that is, similar to it?

A.—Different foundries may vary a little. It is a very slight difference; hardly perceptible.

Q.—Between that and other type?

A.—Type of similar size.

Q.—Would that differ from any other description of type? Between pica or short primer, for instance?

A.—There would be quite a difference between them.

Q.—Perceptible to any printer?

A.—I could tell the difference at a glance.

Q.—Look at the spaces in that ticket?

A.—It corresponds with the requirements of the Code. I am positive of that fact.

Q.—Here is another ticket. See if you printed that ticket?

(Shows witness a ticket.)

A.—No, sir; I did not.

Q.—Is that in conformity with the Code?

A.—I should say not.

Q.—In what does it differ?

A.—These caps are small pica.

Q.—How is it as to spacing?

A.—It seems to be all right.

Q.—You find that difficulty all through the ticket; that is, small pica?

A.—Yes, it is the same size.

Q.—Examine that ticket, Mr. Weaver. (Hands ticket to witness.) Is that in conformity with the provisions of the Code?

A.—That is not spaced properly. These lines should be in the middle.

Q.—Did you print them?

A.—They were not printed at my office, I think. They may have been.

Q.—Did you ever see similar tickets printed at your office?

A.—I did not. A number of tickets were printed at my office for Paschal Coggins, and thrown out from our office before election, because they did not conform to the Code requirements, and we printed others.

Q.—In what other respects, except spacing, does this conform to the provisions of the Code?

A.—Only in spacing.

Q.—Examine that. (Gives witness a ballot.) Did you print that?

A.—Not much.

Q.—How is that in regard to the provisions of the Code?

A.—It is a unique specimen of the Code requirements; a new departure, entirely.

Q.—You say that in no particular does the printing conform to the provisions of the Code?

A.—I didn't say that.

Q.—Examine and see in how many particulars?

A.—Some of the type used here—

Q.—State in how many particulars it differs from the requirements of section eleven hundred and ninety-one of the Code?

A.—I see four (4).

Q.—Specify them?

A.—The first line is not the right kind of type to be used; there is too much space used; the ticket is not four (4) inches wide; it is not cut square; the paper is not the right size. It is a very dirty job, besides.

JOHN T. BARRY, sworn:

Examined by CREED HAYMOND, *Esq.*

Question.—Mr. Barry where do you reside?

Answer.—San Francisco.

Q.—What is your occupation?

A.—I am a printer; a practical printer and publisher.

Q.—How long have you been engaged in the business?

A.—Some twenty (20) years.

Q.—Have you read section eleven hundred and ninety-one of the Political Code?

A.—Yes, sir.

Q.—Do you know the requirements in regard to printing ballots?

A.—Yes, sir.

Q.—Examine the ticket marked “Exhibit B,” and tell in what respect it conforms to that section of the Code, and wherein it differs?

A.—I don't see that it conforms in any respect, except size of paper. The type does not correspond. The names of the officers don't conform. The name of the office, in the first line, is brevier; the name of officer is small pica; so it follows down to “Constable.” The names of the Constables are in brevier.

Q.—How about leading?

A.—It conforms only in the space between the office and the individual; and between the different offices it is entirely wrong spacing, being about four (4) times greater than the law prescribes. The law prescribes for single leading, and this is five (5) leads.

Q.—Fold it and tell us if it can be distinguished by the back from a legal ticket?

(Witness folds ballot.)

A.—Folded in that way it would not. Folded in this way it could be easily distinguished. In either way it would not conform to the provisions of the Code.

Q.—It could be easily distinguished?

A.—Yes, easily distinguished.

Cross-examined by MR. TEARE.

Q.—You say that that ticket differs from that required by the provisions of the Code. Is the ink of the character required by the Code?

A.—It is pale black. I think it is black ink.

Q.—It corresponds in that respect?

A.—I am not positive that the Code requires black ink. I think it does.

Q.—The Code requires black ink.

A.—It corresponds, then, to the requirement.

Q.—In what other respect does it conform to the requirements of the Code?

A.—Between the office and the candidate it corresponds.

Q.—That makes three (3) instances?

A.—Yes, sir.

Q.—Enumerate the instances in which it does not correspond.

A.—Name of officer and space between the offices. There are four (4) different kinds of type here; no, three (3) different kinds. The size of the type: the character the Code calls for is long primer caps, and this is small pica. This space between the different candidates is three (3); that is, three (3) irregularities. There is another kind of type below here, which, I suppose, would make four (4). I see no more, sir.

Q.—Fold that up from the reverse side. Have the printing on the outside. (Witness complies.) Would that be a regular ballot?

A.—No, sir.

Q.—Is it in accordance with the Code?

A.—No, sir.

Q.—Could you tell from the outside of that ticket what kind it is?

A.—No, sir; I could not.

Q.—State if that is folded in the manner prescribed by the Code.

A.—I would say it was not; because the printed matter can easily be detected.

Q.—Is it folded four (4) times from the center, in the manner prescribed by the Code?

A.—I would say not; because the printed matter can easily be detected.

Q.—Why is it not in conformity with the provisions of section eleven hundred and ninety-one of the Political Code?

A.—Because the Code requires that it shall be folded in such a manner that it cannot be distinguished from the outside.

Q.—Have you printed many ballots?

A.—I am not in the job printing business; I publish a newspaper. I am a practical printer. I have not printed ballots. It has been no part of my business.

Q.—In folding that ticket, may it not be folded in various ways? Could not any ticket be so folded that the contents, in the manner you have indicated, could be made known?

A.—I would say not. That folding would not be in conformity with the requirements of the Code, by reason of which the contents might be known.

Re-direct, by HAYMOND.

Q.—Suppose this ticket were printed full, as the San Francisco tickets were, would there be any way to fold it in which it could be distinguished from any ticket?

A.—No, sir.

Q.—You would not be able to fold it so as to distinguish it from a legal ticket?

A.—No, sir.

Cross-examined by MR. TEARE.

Q.—Are you familiar with the tickets used at San Francisco last election?

A.—Yes, sir.

Q.—Were they all right?

A.—Yes, sir.

Q.—Could they be folded four (4) times from the center, so that the contents could not be known?

A.—There was no way in which the type would not show through the back; but the name could not be distinguished through the back.

Q.—Would it not indicate the name that was there? Could you not know the name of the person?

A.—It would be impossible.

Q.—Suppose the tickets were folded up, could you tell the kind of tickets used; tell the names, etc.?

A.—I might, as a printer; others could not.

Q.—In your judgment, then, in tickets folded up like the San Francisco tickets were, their contents could be known by a printer, from their outside?

A.—Those names that were exposed could be told by a printer.

Q.—Those names would be known by a printer?

A.—Yes, sir.

Q.—Now, would paper of the size provided by the Code, and that size of type provided by the Code, and the space provided by the Code, contain the names of all the persons voted for at a general election in San

Francisco, and the names of the offices, from Governor down? That is, would the ticket be large enough to contain them all, so that, when folded, nothing could be told as regards its contents?

A.—I hardly think it could.

Both parties rest.

It is admitted that the regular Republican tickets used in El Dorado County at the general election, September third, eighteen hundred and seventy-three, were printed in the same manner as the ticket marked "Exhibit B," annexed hereto and made a part hereof, and that at least nine hundred ballots of that character and style were cast and counted for the sitting member.

EXHIBIT "A."

Tabular statement of the votes polled in El Dorado County for State Senator, at the general election held on Wednesday, September third, eighteen hundred and seventy-three.

	Thomas Fraser.	Wm. Jones....	Chas. Gliden...
FOR SENATOR.			
Lake Valley.....	45	23	11
Sugar Pine Point.....	14	2	6
Volcanoville.....	7	16	8
Georgetown.....	14	70	101
Carlocks.....	10	4	6
Mosquito.....	14	4	10
Kelsey School House.....	64	16	52
Placerville.....	252	146	128
Smith's Flat.....	38	30	18
Sportsman's Hall.....	34	11	1
Halfway House.....	12	8	1
Silver Creek.....	7	3	4
Diamond Springs.....	36	11	37
Pleasant Valley.....	21	20	18
Newtown.....	13	12	34
Sly Park.....	38	11	10
El Dorado.....	54	38	56
Shingle Springs.....	29	31	36
Nashville.....	7	5	22
Latrobe.....	15	4	38
Grizzly Flat.....	18	18	25
Indian Diggings.....	5	20	18
Brownsville.....	34	1	4
Fairplay.....	25	4	37
King's Store.....	16	47	38
Clarksville.....	4	25	32
Gold Hill.....	13	16	15
Coloma.....	40	25	45
Centerville.....	23	3	29
Greenwood.....	25	39	66
Negro Hill.....	9	6	3
Salmon Falls.....	11	8	30
Individual vote.....	947	677	939
Georgetown*.....	80		
	1027		

*Written with pencil.

STATE OF CALIFORNIA, }
 County of El Dorado. } ss.

I, R. O. Turnbull, County Clerk, and ex officio Clerk of the Board of Supervisors, in and for said county, hereby certify that the above and foregoing statement is a true copy of the official tabular statement of votes polled in El Dorado County, California, for State Senator, at the general election held on Wednesday, September third, eighteen hundred and seventy-three, as the same now appears upon the minutes of said Board.

Witness my hand and the seal of said Board of Supervisors, hereto affixed, at my office, in the City of Placerville, this twentieth day of January, A. D. eighteen hundred and seventy-four.

R. O. TURNBULL,
 Clerk.

{ SEAL }

By E. W. WILMER, Deputy Clerk.





Second Biennial Report

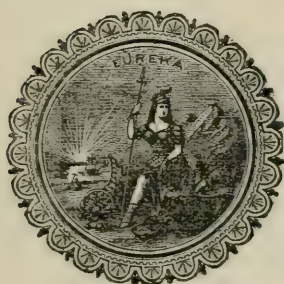
OF THE

STATE BOARD OF HEALTH

OF

CALIFORNIA,

FOR THE YEARS 1871, 1872, AND 1873.



SACRAMENTO:

T. A. SPRINGER, STATE PRINTER

1873.



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REPORT
OF THE
STATE BOARD OF HEALTH.

MEMBERS

OF THE

State Board of Health of California.

HENRY GIBBONS, Sr., M. D., President.....	San Francisco.
L. C. LANE, M. D.....	San Francisco.
F. W. TODD, M. D.....	Stockton.
A. B. STOUT, M. D.*.....	San Francisco.
LUKE ROBINSON, M. D.....	Colusa.
J. F. MONTGOMERY, M. D.....	Sacramento.
THOMAS M. LOGAN, M. D., Secretary State Board of Health.....	Sacramento.

* Dr. Stout was appointed to supply the place of Dr. C. E. Stone, of Marysville, whose resignation was accepted at a meeting of the Board on April 12th, 1873.

GENERAL REPORT OF THE BOARD.

OFFICE OF STATE BOARD OF HEALTH,
SACRAMENTO, (Cal.), July 1st, 1873. }

To His Excellency,
NEWTON BOOTH,
Governor of California:

GOVERNOR: The Act establishing a State Board of Health, approved March eighteenth, eighteen hundred and seventy, prescribes, among the duties imposed upon the Board, that "they shall, at each biennial session of the Legislature, make a report of their doings, investigations, and discoveries, with such suggestions as to legislative action as they may deem proper."

In compliance with this requirement, I have the honor to submit, on behalf of the Board I represent, the accompanying report. It includes a digest of its proceedings from the date of the last biennial report in eighteen hundred and seventy-one, to the termination of the fiscal year, July first, eighteen hundred and seventy-three; also an account of various sanitary questions that have been discussed, and that are being still further prosecuted towards a beneficial termination—the measure in which our efforts have been successful, and such other information, recommendations, and suggestions, as in our judgment appear necessary, and as a sense of duty dictates for the still further maintenance and promotion of the public health.

In explanation of the delay attending its rendition, it may be proper to state that hopes have been entertained to the last hour of its retention, that the returns, in accordance with the law, respecting the registry of births, marriages, and deaths, would have been sufficiently complete to enable me to make a full report, for the first semester, on all the points of the important subject of vital statistics, as contemplated in Chapter II, Title VIII, of the Political Code, entitled "General Police of the State." This expectation, however, has not been fulfilled. The law, although simple and apparently easy of execution, has not been generally complied with, in consequence chiefly of some intrinsic defects in its framing and the resulting misunderstandings that have arisen respecting its details and workings. Accordingly the returns that have been received from such counties as have complied with its conditions, are too incomplete to be made available for the purposes for

which they were designed. This is only what might have been expected, and which has been the experience of every nation and State in the inauguration of such registration.

In its practical application to communities, sanitary science in this, as in every other particular, has the same difficulties to overcome here, as it has encountered everywhere. Restrictions in long established habits of life and business are submitted to slowly and with much reluctance. Personal convenience rises in antagonism to the principle, which requires each member of society to yield something of individual comfort for the general good. The people require to be educated to such necessity, and the importance of the sacrifice of their own convenience or personal interest. They are to learn that the record proof of the birth, marriage, or death of any person, or of all persons, may become of great importance from a legal standpoint; that the statistics derived therefrom furnish a sure index to the prosperity of the State in the number of births and marriages; that they supply data upon which governments, communities, and life insurers may base their action; and that they furnish knowledge of unfavorable locations and conditions, which, when known, may be avoided, and the struggle for life thereby rendered easier and more certain of success. It is a melancholy fact that this knowledge, of such great import and utility, never reaches the great mass of mankind. There is a too general ignorance of the fact that those who are, or who act nearest in harmony with the conditions in which they are placed, or control them the best, live the healthiest and happiest lives, and that the greatest amount of sickness, suffering, and death is the portion of those who disregard the laws of nature and do not live in harmony with their surroundings. Thus it seems true, now as ever, that "the people die for lack of knowledge," and the question forces itself upon us: How can we do justice to ourselves, our office, and the community, unless we speak out strongly and continuously until we are heard and heeded? Being only an advisory, and not an executive arm of the State, the most that we can do is to make recommendations to the Legislature, and to teach the people that there is a way of life, and that those who seek may find it. This we have done and will continue to do by means of our reports, lectures, and other publications, especially at times of impending danger from epidemic visitations.

There is another medium by which such teaching has been conveyed, and that is through the medical profession, which has almost exclusive possession of the information to which we refer, whether it be philosophical knowledge of the causes of disease and death, or simply empirical knowledge of prevention and cure, gained either by the accumulated experience of generation after generation, or the patient investigations of scientific explorers. Through the liberality and enlightened foresight of our Legislature, the information from this source is annually spread out on the pages of the transactions of our State Medical Society, at the expense of the State, and thus made accessible to all who wish to avail themselves of it.

There are also other measures, which we can only suggest, and which it remains for our legislators to enforce. I would instance, particularly, the imposition of compulsory penalties and fines. Besides these, there is still another instrumentality, by means of which the leading scientists of Great Britain have lately done so much. I refer to their efforts in the direction of "science teaching in schools." Through the Board of Regents of our State University, the State Board of Education, and the

numerous city and county school Boards, there is offered a grand field for just such efforts in turning the direction of the vast current of study, among the young of both sexes, towards that knowledge which tends directly to the preservation of life, and which is, therefore, worthy of a far higher consideration than that which tends simply to the adornment of society. It affords me unqualified satisfaction to be able to state, that in compliance with the expressed wishes of the indefatigable President of our State University, the Regents have taken the initiative, not only in establishing a Professorship of Sanitary Science in the curriculum of the medical department, but also purpose making it a part of this professorship to give such instruction to the students in the academic department, so that every graduating class can go out properly informed in the great art of preserving the individual and the public health. It remains for our city and county educational Boards to follow this praiseworthy example.

A synopsis of the special subjects constituting a course of lectures on sanitary science and its collaterals is inserted in the appendix of this report, as suggestive to the Directors of the various departments of public instruction. Doubtless there are to be found many, among the well-informed members of the medical profession, scattered throughout the State, and looked up to wherever there is a cluster of people intent upon educating their children, who would cheerfully coöperate in any scheme that may be devised for the dissemination of the knowledge they possess of the prevention of disease and death, of which the people have no conception whatever. A common regard for the interests of mankind demand it of them.

In what does our present advanced civilization differ from the less enlightened state of past ages? Is it not in our more perfect adaptation to and control over our own surroundings, and is not a still further advance rendered possible by the increased knowledge of the laws which govern them? By obedience to these laws, man is but placing himself in harmony with those of nature, where the reign of law is universal; and, as all man's command—all his powers over the forces of nature—are embraced in his knowledge of law, so, when he works in harmony with it, are those forces his servants, and when he does not work in harmony with law, are they terrible and destructive masters. The people need to know all this; they need to know that the teachings of modern science show that disease is not a *thing* or *entity*, as formerly believed, to come arbitrarily, or as a special visitation of an overruling power, but a *state* or modification of health—a perverted physiological process. To the charlatan, disease is a set of symptoms to be attacked by a variety of drugs—a drug for each symptom; but to the enlightened physician it is, in reality, but the course of nature in a living thing, which is not health. "In health, the balance of function is even; incline it to either side, and there is disease. That being so, just as the life process constitutes an individual, and puts him apart from his fellows, so must any alteration in it be individual and not general." (1) Such are the modern ideas of the nature of disease, and the people need to know that these advances in our knowledge have ever been made by the labor of men devoted to science and the search of truth for its own sake; and that when we ask our legislators for laws, and the enforcement of those laws, to enable us to give the people, whose interest they represent, positive information, based upon demonstrative truth,

(1) Sir William Gull, London.

concerning self-preservation, and the measures enumerated in the schedule of subjects embraced in the Code of public health, hereinafter inserted, we ask it in behalf of the masses, and not because it is essential either to our own safety or emolument. On the contrary, it would seem that the aim and objective point is to do away with the very necessity for the profession of medicine; for if we should succeed in accomplishing all that is desired, there would be nothing left for the physician to do, and prevention would ask little beyond individual knowledge.

Without going over the ground so intelligently cultivated by Herbert Spencer, let me ask, if, after all the learning acquired in our schools and colleges, is there a single graduate who knows anything of the prerequisites or value of longevity, or who has any useful knowledge of self-preservation? Is there one who knows what to do in a case of asphyxia or apparent death, whether produced by drowning, suffocation, bad air, or coal gas, or how to stop the flow of blood from an ordinary wound? Of what use is one's knowledge of the classics, mathematics, geography, grammar, etc., if placed under circumstances of danger from hemorrhage, or drowning, or poisoning, or any other accidental calamity, when not a moment is to be lost? It may be said that these are rare emergencies, but our every-day life is made up of experiences requiring just as complete and perfect knowledge of the laws of life.

What but ignorance as to the means we possess of controlling small-pox prevents it from being completely stamped out? What but this same ignorance enables cholera to follow with its fatal tread over the great routes of travel throughout the world? The laws of its propagation are substantially the laws of typhoid fevers, dysenteries, and other epidemics, of which it is hardly a metaphor to say that "they consist in the extension of a putrefactive process from matters outside the body to matters inside the body; diseases of which the very essence is filth; diseases which have no local habitation, except where putrefiable air or putrefiable water furnish means for their rise or propagation; diseases against which there may be found a complete security in the cultivation of public and private cleanliness." (1) What but the all-prevailing ignorance of this knowledge allows the accumulations of decaying organic matter and drainage into drinking water?

The importance of the instruction here advocated will appear still more urgent from another point of view. When we consider how many die prematurely, and how few men and women in middle or later life—indeed, how few young persons in the very bloom and spring-time of life—are thoroughly well. Look at the sallow cheeks, the dim eyes, the pain, the weariness, the irritability, the waste of life! Look at our lunatic asylums, filled to repletion as fast as we can build them! Again, look at the sad havoc disease and death have made within the last few years among the most eminent of our country. Look at our Senators and public men, the victims of an early grave or of hopeless paralysis. The English statesman, religiously observing his open air exercise and other health-preserving measures, carries on his physical and intellectual power unbroken beyond the years of three score and ten. But where is the American statesman, who, like Palmerston, has served his country to his eighty-second year, or like Lyndhurst, has made his most eloquent efforts at the age of eighty-six?

(1) Report General Board of Health, Great Britain, 1858.

"It cannot be doubted that the physical sins, partly our own, and partly our ancestors—the transgressions of the race which produce this ill health—deduct infinitely from complete living. How often in our own observation do they make life a failure and a burden instead of a benefaction and a pleasure? The deductions from statistics leave no doubt that by physical transgressions, which might be avoided, more, much more, than one half of life, and its pleasures and usefulness, are needlessly sacrificed." (1)

It is by no means pretended that a mere knowledge of these laws, however perfect, would prevent entirely this violation, or that any attainable compliance with their requirements would completely exempt from all diseases. Man's necessities often compel him to transgress, and, in the absence of such compulsion, inclination would often lead him—in spite of knowledge—to sacrifice future good to present gratification. But, that it lies within our power to stay the prodigal waste of human life which marks us as a people, and that the right knowledge, impressed in the right way, would effect much, cannot be questioned. From the consideration of the value of hygienic knowledge, as a science, to be taught to all, and with the best advantage to those who are about to engage in the battle of life and to take their places as School Directors, members of Boards of Health, and other public officers, let us turn for one moment to consider what is its real or possible value to the State.

"Every man who is obstructed by sickness from working his work and doing his duty as a citizen, is necessarily a loss to the revenue of the State at large. If we have a community of ten thousand, with one hundred sick, the wealth-producing power of this one hundred is not only taken from the public purse, but ten or twenty citizens have to be told off to attend to them in their sickness; and during their term of illness the sustenance of the sick and their attendants is required to be obtained from public or private sources. But further, if from the severity of the disease five or ten adults—fathers and mothers—in this hundred die, the consequent loss to the community is difficult to calculate, as their children might require to be sustained, and the status of their families be deteriorated morally and materially." (2) Nor is this all. Dr. Playfair, of Manchester, England, has found, after careful inquiry, that in a mixed population of all ages, the number of sick bore the proportion to the number of deaths of twenty-eight to one, or for each death twenty-eight persons are usually sick. The accuracy of this ratio has been confirmed by other observers. (3) By this method, if the number of deaths in any given town or city be ascertained and multiplied by twenty-eight, a close approximation to the sick rate may be obtained. Applying this rule to San Francisco, it is found in the mortality table herein inserted, that during the year eighteen hundred and seventy-two the whole number of sick was eighty-eight thousand three hundred and twelve. It thus appears that a number corresponding to three fifths of the entire population were sick during that year. Enormous as is this aggregate of suffering and disease, it is small compared with some other cities. In New York it is found that the whole number of sick in eighteen hundred and sixty-six was seven

(1) Lecture on Sanitary Science, by A. B. Palmer, A. M., M. D., University of Michigan.

(2) Sir James Simpson, Bart., M. D., F. R. S.

(3) American Journal of Medical Sciences, October, 1865.

hundred and eighteen thousand and sixty, and in Philadelphia during the same year, four hundred and ninety-two thousand and ninety-six; total for the year, one million two hundred and ten thousand one hundred and fifty-six, or nearly three fourths of the entire population of those cities. No wonder at the necessity for keeping an army of fifty thousand physicians in more or less constant employment in the United States.

Such being the value of the health and lives of the citizens to the State, and such the proportion of disease to death, it is as impossible to estimate those sanitary measures and means, so definite and so accessible, that scarcely a single case of sickness, or death thereby, ought to occur in any civilized country, by the diseases which now carry off thousands and tens of thousands, as it is to estimate, in mere yellow gold, the value of the life of a father, however humble a laborer he may be, cut down prematurely by disease and death. How important, then, are not only State and municipal advisory Boards of Health, but State and National enactments looking to the conservation of public health. For, "be it remembered, as of legislative concern, that the physical strength of a people is an essential and main factor of state prosperity; that disease, so far as it affects the workers of the population, is in direct antagonism to industry; and that disease which affects the growing and reproductive parts of a population must also in part be regarded as tending to the deterioration of the race."⁽¹⁾ With this handwriting, "Deterioration of the race," shining on the wall of the not far distant future, the whole question rises above the sphere of mere local or State jurisdiction, and enters into the province of National administration. Surely, if education and agriculture, including the fostering care of young animals, are of sufficient importance to call for distinct departments of the Government, the public health, which lies at the foundation of individual and National progress, should with more reason receive the attention of our legislators. Humanity and our country need that our children have the same provident care as is now extended to colts and calves and lambs—that they should live and be strong and useful.

Influenced by such considerations, and acting as the executive officer of this Board, by and with the advice and consent of your Excellency and my colleagues, I have been sedulously engaged during the past two years of my official term, in endeavoring to realize the grand idea of a National Department of Health, proposed many years ago by Jeremy Bentham. I shall only touch on this scheme at this place, and observe that if such a plan could be inaugurated through the instrumentality of our State Boards of Health, the signs of impending epidemics might be so closely watched throughout the length and breadth of our extended territory, that signals of approaching or suspected danger—similar to those furnished of the weather by the Signal Service Department, at Washington—may be heralded long enough in advance to provide by means of sanitary measures against the possibility of the spreading of disease. In the furtherance of this scheme, I have, in the capacity of Chairman of a National Health Council Committee, composed of one physician from every State and Territory of the Union, appointed by the President of the American Medical Association, in eighteen hundred and seventy-one, attended two meetings—one in Philadelphia and another in St. Louis—for the purpose of carrying out the measures contemplated by said appoint-

(1) L. Sneade Brown; Thirteenth Report on Public Health, 1870; London.

ments, and, as will hereinafter be seen in my report to the Board, with a strong probability of accomplishing all that is desired. Resolutions were adopted at the latter meeting, and referred to the section on Public Hygiene and State Medicine, asking Congress to establish a National Sanitary Bureau, and requesting the United States Educational Bureau to so extend the scope of its inquiry as to include vital and mortuary statistics in relation to local, meteorological, and geological influences, and to disseminate the information so collected throughout the country.

An appeal will be made to the next Congress for the passage of a bill of a similar character to that which was introduced last session, a copy of which will be found in another part of this report, embracing the investigation of every conceivable subject connected with sanitary science. The passage of such a law will mark an era in our national history, and reflect luster on the administration inaugurating it.

The fact that the growth of sanitary knowledge has been so rapid in Great Britain and other European States, that the only barrier now in the way of the most sweeping and beneficent reform is the difficulty of finding a sufficient number of medical men, with the requisite preliminary education, to act as inspectors and other sanitary agents, is a sufficient demonstration of the political and economical value of the enterprise.

Dr. Farr, who, as Vital Statist of the Registrar General's Office, in Great Britain, has commanded the confidence of his own government and won golden opinions from students of statistics over the civilized world, has so high an estimate of the political importance of State Medicine that he "confidently predicts the eventual appointment of a Ministry of Public Health for the British Empire. Such a Ministry would divide itself into four departments: administration, medicine, engineering, and statistics; each of which should be organized so as to work in harmony with a council of health and executive heads. Each town should have its Board of Health and its health physician in communication with and in aid of the Central Board of Health." Very similar views have been expressed by Mr. Simon, Medical Officer to the Privy Council, and by Dr. Parkes, Professor of Military Hygiene in the Army Medical School. In Italy a system of district medical officers has been established to report on sanitary matters and disease, to collect statistics, and acquire such local knowledge of medical topography as shall enable them to advise on all points connected with the public health. In the States of the German Empire, and in the French Republic, State Medicine exhibits a more complete development. The following schedule of subjects embraced in the Code of Public Health, adopted by the Government of Germany, will indicate the character and scope of the investigations of a Board whose plan of operations may be regarded as a model and example for other similar Boards:

A.—Statistical; statistics of population; statistics of mortality; statistics of reproduction; statistics of sickness, accidents, etc.; statistics of dwellings; statistics of food; statistics of animal life.

B.—Topographical; physical geography, as connected with health, vigor, and longevity of the inhabitants of the districts; chemical analysis of the various soils, springs, wells, and rivers; changes of climate, seasons, and weather (meteorological observations).

C.—Forensic medicine.

D.—Measures for the prevention of diseases; localities; construction of buildings; purification of buildings and towns; removal of nuisances;

water supply; drainage and sewerage; pavements; smoke nuisances; healthy progeny; sale of food (adulteration); sale of medicines and poisons; control of trades and occupations; locomotion, both on land and water, whether by steam or by other mechanical expedients; public amusements and recreations; public establishments; burial of the dead.

E.—Measures for the arrest and palliation of disease; 1, public dispensaries; 2, hospitals and infirmaries for the insane; 3, asylums for the deaf and dumb.

On the advent and during the prevalence of any important epidemic or pestilential disease: quarantine laws, vaccination, prevention and palliation of disease among animals.

The bill, to which reference has just been made, and which was presented at the last meeting of Congress, and referred to the Committee on Education and Labor, (1) will be found even more comprehensive than the European method, embracing, as it does, the consideration of every conceivable subject that can possibly affect the health of the Nation. Besides being indorsed by the American Medical Association, and the leading sanitarians of the United States, it has received, in frequent private conferences, the expressed approval of numerous members of both houses of Congress, and will doubtless in due time become engrafted on our civil government.

I might here extend the discussion of the numerous and complicated elements of social existence, on which the true health of the people depends, and adduce further evidence from the action of other governments, as well as from other States of our Union, respecting the political and economical value of such instrumentalities as public Boards of Health, but it is here deemed unnecessary, as the subject will be renewed in another part of this report. There are few reasoning persons who will not readily admit, without logical proof, that there is such a thing as public health distinct from individual health, and that it needs preservation by public or national agencies. But there is one feature made prominent in the reports of the Massachusetts State Board of Health, which has enlisted the warmest commendations of sanitarians, and to which I would call special attention, viz: the policy of assigning "special investigations" to skilled and competent individuals. Such questions as analysis of water and food, chemical and microscopical investigations in general, and questions of engineering, must of necessity be committed to technical experts, while many other special inquiries will also be more effectively conducted, as exemplified in the reports referred to, by selected individuals, devoting themselves exclusively to their elucidation. In evidence of the beneficial results of such a policy to the Government, as well as to numerous sufferers from disease or wounds during our late civil war, the President of the Virginia State Board of Health (2) refers to the investigation and treatment of special affections established by the orders of the Surgeon General:

"In addition to the immediate results in returning to duty numbers of men who would otherwise, in all probability, have been permanently invalidated, we have to chronicle among the fruits of these special investigations, such permanent acquisitions to medical science as the papers of

(1) See Appendix.

(2) J. L. Cabell, M. D.

Dr. De Costa, on functional disorders of the heart, and of Dr. S. Weir Mitchell, on injuries of nerves and their consequences."

Reference is also made to the excitement created a few years ago by the appearance of a destructive disease along the line of travel of Southern cattle to Northern markets. It was known as the Texas cattle disease, and was at first believed to be identical with the inveterate rinderpest of Europe. According to a report of the Department of Agriculture, "the losses from this disease, for a few years prior to the war and since its close, cannot be accurately stated, but undoubtedly amounts to several millions of dollars. * * * The mortality of eighteen hundred and sixty-eight alone, as reported by our returns, amounts to at least fifteen thousand, involving a loss of not less than five hundred thousand dollars." Now, as the results of a well directed scientific investigation, in which a number of special experts took each his appropriate field of inquiry, the Commissioner of Agriculture felt himself warranted in dispelling the apprehensions entertained by many that the disease in question was the cattle plague of Europe, and in giving public assurance "that its ravages may be easily confined in circumscribed limits, if not prevented altogether, by judicious legislation, which shall not seriously interfere with the freedom or the profits of the cattle trade. (1)

These illustrations of the practical utility of special investigations are referred to, not merely as examples of the particular class of inquiries it would be expedient for us to make, but as exhibiting palpable and valuable results, easily appreciable by the popular mind. There are questions of pressing importance which it is very desirable should be elucidated on our own soil—questions that relate to our own medical topography—which are suggested by the vital statistics of our own population, and that have reference to the prevention or arrest of the march of epidemics along the routes of travel across the continent, which cholera, and more recently the epizootic, have pursued. Of primary importance, as bearing upon all the rest, will be the collecting and arranging of the vital statistics of the State, after the machinery shall be so amended as to make it work smoothly and continuously. This will not merely involve the simple process of registering births, marriages, and deaths, through the instrumentality of the civil authorities. There will still remain the difficult and responsible work of collating and analyzing the whole mass of facts. Tables alone, and without explanatory text, are almost entirely useless, because the majority of the people are not skilled in generalizing, and, if they were, could not make correct conclusions, for the want of a knowledge of the details of the work. Their practical value lies in the deductions; to arrive at which it becomes necessary to bring together certain facts to ascertain the results of such grouping, and in making deductions from these results, to notice all collateral or surrounding conditions, whether atmospheric, contagious, or any other. It is impossible for the executive officer of the Board to accomplish all this in a manner most useful to the State and creditable to the Board, without clerical aid, especially when the other duties attaching to his office are considered; the immense correspondence that has to be kept up; the time that is consumed in traveling; the monthly, (2) quarterly,

(1) Report of the Commissioner of Agriculture on the diseases of cattle in the United States; Washington, D. C., 1871.

(2) These are published regularly in the Pacific Medical and Surgical Journal.

and biennial reports that have to be prepared, and the requisite study of sanitary questions, of which the literature, already very extensive, is enlarging with rapid strides. (1)

It will be seen in the accompanying statement that the expenses of the Board have fallen within the limit granted by the State. We repeat that it is our intention so to manage the means placed at our disposal that the same results may always attend, while, at the same time, we would earnestly request, in consideration of the views just advanced, that the Contingent Fund be increased so as to enable the Secretary to employ the requisite clerical services. In turning to the report of the Massachusetts State Board of Health, after which all our other State Boards are modeled, the following items will be found among its other expenses for the year eighteen hundred and seventy-two, viz:

Chemical analyses.....	\$662 12
H. F. Walling, for report on lakes and ponds.....	325 00
Paid for special investigations to Wm. Riply Nichols and seven other experts.....	1,894 35
Total	\$2,881 47

In addition to the above expressly named "special investigations," which are of incalculable value, and would have been cheaply purchased by the State at a cost tenfold the entire appropriation, there were

(1) The *general duties* of a medical officer of health have never been more happily expressed than in an instructional minute issued by the General Board of Health of Great Britain in eighteen hundred and forty-eight. We quote that portion of the minute which relates to our present subject, making two or three necessary alterations within brackets. It runs thus:

"He will make himself familiar with the natural and acquired features of the place, with the social and previous sanitary state of its population, and with all its existing provisions for health, viz., with the levels, inclinations, soil [and humectation thereof, particularly in reference to level and variations of level of subsoil water], wells, and water-springs [and other sources of water supply] in the district [the quantity of the supply and the liability of the different sources to pollution]; with its meteorological peculiarities; with the distribution of its buildings and open spaces, paved or unpaved; of its burial grounds and lay-stalls [lay-stall meaning here, it is to be presumed, a place for the deposit of animal ordure and other refuse]; with the plan of its drains and sewers, and water supply; with the nature of its manufacturing and other industrial establishments; with the home accommodation of the poorer classes, and the facilities afforded them for bathing and washing; with the arrangements for the burial of the dead; and with the regulations in force for lodging houses and slaughtering places; for the cleansing of public ways and markets, and for the [deposit and] removal of [human ordure and other] domestic refuse. * * * He will take the best means in his power to become acquainted from week to week, and in times of severe disease, from day to day, with the deaths and sicknesses in his district; and he will inquire to what extent they have depended on removable causes. With the assistance of such subordinate officers as the local Board may empower him to direct and superintend, he will, without intermission, see to the wholesomeness of his district, taking care to bring its several parts under examination as often as their sanitary circumstances shall require; and especially observing those places which have previously given occasion of complaint, or been subject to sickness. He will inquire as to the cleanly, wholesome, and weather-proof condition of houses; as to their due ventilation and not overcrowded condition; as to the efficiency of their drainage and water supply; and as to the absence of dampness and offensive effluvia in and about them. He will examine, from time to time, the drinking waters of the place [and their sources where a running stream], and will observe whether provisions are offered for sale in any damaged or adulterated state, that is hurtful or illegal. He will occasionally visit all burial places, and see whether they give any ground for complaint; and he will habitually observe the slaughter houses of the district, and other industrial establishments which are liable to emit offensive (especially animal) effluvia."—("The Practitioner," July, 1873, p. 61.)

other expenditures, besides the fixed salary of the Secretary, which make the total contingent expenses per annum one third more than the total amount now asked for. We trust, therefore, that when it is further considered that the Secretary of this Board undertakes to compile, digest, and make available, for the purposes for which they were designed, the returns of births, marriages, and deaths, which is not done by the Massachusetts Board nor any other State Board of Health, but which, in every State where it has been resorted to, comes within the special province of the office of the Secretary of State, and involves a heavy item of expense for clerical and expert services, our reasonable request will not be denied.

Contingent expenses of the State Board of Health, exclusive of the salary of the Secretary, which is two thousand five hundred dollars per annum:

Rent of office from October 31st, 1871, to date.....	\$1,000 00
Traveling expenses of Secretary.....	450 00
Expressage and postage, etc.....	25 00
Traveling expenses of Henry Gibbons.....	280 80
Traveling expenses of L. C. Lane.....	187 20
Traveling expenses of Luke Robinson.....	90 00
Traveling expenses of F. Walton Todd.....	116 00
Total	\$2,149 00

Respectfully submitted, in behalf of the California State Board of Health.

THOS. M. LOGAN, M. D.,
Permanent Secretary.

SACRAMENTO, July 1st, 1873.

REPORT

OF THE

PERMANENT SECRETARY

TO

THE STATE BOARD OF HEALTH.

REPORT OF THE PERMANENT SECRETARY.

To the State Board of Health:

GENTLEMEN: In preparing for your acceptance and presentation, to the State Legislature, in accordance with our organic law and my duties as your executive, the accompanying report, I beg leave to submit the following reasons for the

METHOD THAT HAS BEEN ADOPTED.

The subjects that have come up for consideration at our regular meetings, and been committed to members of the Board for examination and elucidation, and most of which are within the special province of your Secretary, are so diverse and incongruous, that, to present a mere resume of our proceedings, would occasion considerable confusion, and so militate against that ready apprehension and clear conception of the various matters discussed, as to render obscure, if not nugatory, the information we wish to impart. Working as we do for the public, and writing, not for the professional, but the lay reader, it has been deemed most proper, to connect those facts which lie sterile and disjointed as long as they remain diffused or scattered, under appropriate headings or groups, in as simple and perspicuous a manner as possible, so as not to interrupt the attention, or confuse the mind.

In arranging methodically such a digest, it was found necessary to interpolate very freely in order to render the sense clear and explicit, and in many instances to rewrite whole pages, and, in fact, to add entire articles like the one which is now placed first in order, as it is first in importance. All of which, it is hoped, will meet your approbation.

VITAL STATISTICS.

"An accurate basis of facts, derived from a sufficient amount of experience, and tabulated with the proper precision, lies at the very foundation of hygiene." (1) As the importance of exact knowledge be-

(1) Manual of Practical Hygiene, by Edmund A. Parker, M. D., F. R. S. An abstract of all the laws, relating to the public health, will be found in the Appendix, in order to facilitate ready reference, particularly in making requisite amendments, and also for the more general diffusion of the knowledge of these laws.

comes better appreciated, statistics grow year by year more in favor with national, State, and municipal authorities, and thus has sprung into existence that great characterizer of modern civilization, State Medicine.

Men cannot now be well convinced on vital, social, and political questions, except they see the figures, or at least know that the statements which they receive are made by those who have seen them. Questions of life and death come more and more to be considered as mathematical problems, requiring a basis of facts from which to deduce correct conclusions; and the value of such conclusions is certainly very great, compared with the common opinion formed, as it must be, by guess from uncertain data.

As no business can be successfully or properly conducted without a carefully kept system of accounts, so it cannot be justly said that a community or State can reasonably expect to be prosperous without being fully posted as to the condition of all its interests and of all the influences affecting them. "Except by means of statistics, we cannot with any degree of certainty, know whether, over a given disease, we are gaining or losing control—whether, even the general result of our efforts is better or worse than in times past. The common opinion may be that the race is degenerating—that the average age of man is decreasing; but without statistics the truth or falsity of such opinion cannot be known. In no other way can be shown the influence on mortality of climate, sex, occupation, and different social states, and of various other conditions, which, when known, may be avoided." (1) Hence, statistics commend themselves to the whole community—the non-professional, as well as the professional. Impressed with these views, and believing that any source of intelligence, which shows the physical, moral, social, and sanitary condition of a people, is of the most vital importance to every Government, and that the registration of births, marriages, and deaths, and the causes of death, will show these conditions most effectually—the more so, as it has been found by our past experience that no reliable statistics can be procured, to any considerable extent, by voluntary efforts alone—we recommended, in our last report, the aid of laws to accomplish this object. Accordingly, the last Legislature wisely adopted a system of registration, to be found in Title VII, Chapter III, of the Political Code.

This Chapter accords virtually with the Political Code of New York, and the laws of other States, which are now in successful operation. California once had a statute, which, to a certain extent, your Secretary was instrumental in having enacted; but the machinery proved so cumbersome and expensive, that the Registrar, who succeeded in getting the appointment, finding there was no fortune to be made by his office, had it repealed in the second year of its existence, and by this reckless, vandal legislation, caused an irremediable loss to accrue to the State.

The present law is economical—more so than that of any other State in the Union—and is well calculated to supply a deficiency which should long ago have been rectified. That it has not worked smoothly and perfectly since it went into operation, on the first of January last, is not due so much to the failure of providing for a more liberal distribution of all the requisite blank forms, with fuller instructions and other facilities, which it is now proposed to correct,—as to our imperfect civilization, to our ignorance, or rather ignoring of the very conditions of

(1) Third annual report of the State of Michigan, relating to the registry and return of births, marriages, and deaths, for the year 1869.

a high social state and of healthy life. The minds of the leading men, as well as of the masses, are so absorbed in mining speculations, in commerce and the arts, agriculture and politics, that it is almost an impossibility to turn them aside, and secure their attention and action upon a subject, whose results, however good and necessary for the progress of the race, are so remote, as those of vital statistics. They deem it better to transmit to posterity an account of stocks and merchandise than the births of their children; more important to record the losses, by failure of crops and by destruction of herds, than by the deaths of their fellow citizens. Fortunately, however correct may be the general opinion with regard to the "paternal theory" of government, as regards the fostering care of agriculture, commerce, and all the arts of peace, there can be but little diversity of view, among the enlightened, as to the necessity of the same provident care of the State being extended into the field of human life, to encourage and watch over and protect the vital machinery of man, by which all other interests, public and private, are created, sustained, or made of any value.

In that remarkable series of novels, by which a Prime Minister of England sought, and successfully, to mold and educate a nation, there are no more pregnant truths than these:

"It is the first duty of a State to attend to the frame and health of the subject."

"The fate of a nation will ultimately depend upon the health and strength of the population."

"To elevate the physical as well as the moral condition of the people, was one of the purposes, and not the least important, with which D'Israeli entered into public life. The Public Health Act, Food Commissions, innumerable sanitary associations, and the active support of the Government in all questions affecting the health and strength of the population, are the results of his life and labors." (1)

That our own statesmen have turned their attention in the same direction is full of promise; and when we reflect that a healthy, able-bodied, adult population is, in truth, "the State," we begin to realize the scope and intent of the laws in question, which are calculated to inform us how near the population approaches that standard, and whether it enjoys all that the natural and organic law offers it the means of possessing and using.

"For, if in analyzing the body politic, as it actually is, and taking an account of the vital and productive force that it now possesses and wields, it be discovered that there are depreciations of life and power, then the Legislature will learn what and how great these are; whether they grow out of the essential conditions of our terrestrial existence, or whether they, or any part of them, may be modified, diminished, or prevented by any State action, or by any intelligence and coöperation which may be enlisted and authorized for this purpose."

In whatever aspect this subject is viewed, its magnitude and importance surprise us; and the indifference with which it is treated by men

(1) Hygiene, Vol. I, No. 1, January, 1873.

of intelligence—even members of the medical profession—surprises us still more.

Let us look at some of the results of registration, from the practical, money point of view, so clearly put by that American Nestor of vital statistics, Doctor Edward Jarvis, from whom I have just quoted. Doctor Farr, the reliable administrator of the registration law in England, estimates the national value of a common laborer, twenty-five years old, at (two hundred and forty-six pounds seven shillings, or,) one thousand two hundred and thirty-one dollars and seventy-five cents. At a low estimate, it costs not less than fifty dollars a year, on an average, for the support and education of children from birth to maturity. Every child then is worth to the State fifty dollars, multiplied by as many years as he has lived; and, consequently, the death of every one under fifteen years old, is a loss of that amount to the State. In this way the public or national loss, by early mortality, may be easily estimated. In the United States census of eighteen hundred and seventy, I find that there died in California, two thousand two hundred and seventy-five male, and one thousand nine hundred and seventy-six female children, making a total of four thousand two hundred and fifty-one children and youth under the age of fifteen. These had lived an average of two years, eight months, and seven days each, or a sum of eleven thousand four hundred and twenty-seven years in all. At fifty dollars a year, (1) which is a very low estimate for California, they had cost their families or the community, five hundred and seventy-one thousand three hundred and fifty dollars, for their maintenance, which must be charged to the general income of the State; and so much was lost by their premature death.

This is the mere money value of the unskilled labor of these children, had they lived. But they are possessed of another value, that is incapable of expression in terms of dollars and cents. Their brains, directing their labor upon the rich natural resources of our State, would in a few years produce results to which no definite value can be assigned; while the talents of the more gifted, developed under the liberal provisions of our State University, would prove an invaluable leaven in the civilization of California.

Now, the number of children in a community is always referred to as an evidence of general prosperity, and in as far as they are to grow up and contribute to the force and capital of the State, they certainly are indications of future strength and prosperity. But in as far as they are to die before they reach the fullness of their development, they are an evidence of weakness, and a burden, and a tax on public force and wealth. Looking, then, at these laws from a politico-economical point of view, it would seem that, independently of the very great advantage the State would derive from a faithful executed system of registration, the ability to determine, clearly and distinctly, the relative fecundity and mortality of its population; the relative proportion of the sexes among its citizens; the longevity of the people; the causes of death within its borders; the weight with which each cause of death presses upon different portions of the community—whether those portions be considered in relation to age, sex, or condition of its people, or in relation to different sections of its territory, and of many other benefits—it would also prove highly

(1) This is the amount appropriated annually from the State Treasury for the support of every orphan, in the different asylums.

profitable to be able to compare these conditions of the inhabitants, with those of other State and countries. Nor should such measures be resorted to decennially only, as is now partially and imperfectly done by the United States census, but annually, to meet the urgent demands of progressive civilization.

In order to make these comparisons correctly and with satisfaction, it stands to reason, that the basis upon which the specific information, derived from different States and countries, connected with the three great events of human life, should be essentially the same, and that it should be arranged and printed in such form and manner, that deductions may be readily drawn, setting forth, in reliable and positive terms, the real sanitary condition of the people, the progress of population, and the law of mortality in each State and country.

Actuated by these considerations, and urged on by the progressive members of our National Medical Association, which assembled in San Francisco in eighteen hundred and seventy-one, I submitted the following preamble and resolutions for the consideration of that enlightened body, which represents the medical profession of the United States.

A NATIONAL HEALTH COUNCIL.

WHEREAS, The science of hygiene and its corollary preventive, or State medicine, are subjects eminently congenial with the purposes of this association, inasmuch as they have for their objects the preservation of human life, and the removal of those causes of disease and death, which it is in the power of legislation to ameliorate, if not eradicate; and, whereas, the great fundamental idea that was made the prominent element for medical association, and that led eventually to our National organization, was a higher standard of medical education; and, whereas, the present system adopted by our colleges provides more and more satisfactorily for the thorough qualification of the graduate, as regards the principles and practice of his art, but does not provide at all adequately for the special study and cultivation of questions of State medicines, therefore, be it

Resolved, That this association recommends a distinct and separate chair of hygiene, independent of physiology, to be established in all our medical schools, and constituted a requisite curriculum preliminary to that diploma which confers one of the highest honors of the profession.

Resolved, That the inauguration of the enlarged philanthropic policy of State medicine in Massachusetts and California, is worthy of our special approbation, and commends itself to other States for imitation; and, therefore, the President of this association is hereby authorized to nominate at this session a committee, consisting of one physician from each State in the Union, to memorialize the Legislatures of all the other States to follow the example of one of the oldest, most enlightened, and conservative, as well as one of the youngest, most progressive, and enterprising members of our glorious confederacy, who have led off in the right way, and at the right time, for the prevention of disease, and the correction of "those multitudinous agencies, whether physical, whether moral, whether born of earth, of air, or of society, which are either openly or insidiously degenerating the human race."

Resolved, That this association further recommends that initiative steps be taken, as soon as six States shall engraft State Medicine upon their statute books, for the formation of a "National Health Council," whose objects shall be the prosecution of the comparative study of

international hygienic statistics, and the diffusion and utilizing of sanitary knowledge; and that said Council shall be aided and assisted by this association, in using whatever influence may legitimately lay in their power, with foreign States, as well as with the medical profession and people generally, in securing coöperation in the ends and objects of public hygiene.

Resolved, That said National Health Council, although thus organized as a branch *per se*, shall be auxiliary to this association, and shall constitute a special section on hygiene, to which all questions, germane to this department of medicine, shall be referred. "Only," to use the language of the great Virchow, "by thus working harmoniously together, by thus mutually enlightening each other, will the State gain an organ to which may be safely intrusted the solution of the great question of our time, viz: bodily and mental health, and development of future generations."

These resolutions were unanimously adopted, and a committee, composed of one physician from every State, was accordingly appointed. As Chairman of the committee, I rendered the following report at the next annual meeting in Philadelphia:

"The Chairman of the Committee on 'A National Health Council,' in conformity with certain resolutions adopted at the last meeting of the association, respectfully reports:

"That the initiative was taken by first transmitting a circular to each of the thirty members of the committee, representing as many States, informing them of their appointment, and of its nature. Upon the receipt of a favorable response from most of the committee, a form of a memorial was prepared, printed, and mailed to each, with a view of bringing about a concerted movement in every State in regard to such legislative action as the subject seemed to require.

"While your committee are not yet able to give any definite results of their action, still we report progress, and can confidently state that, although the requisite number of States have not yet conformed to the resolutions we were appointed to carry out, nevertheless a general interest has been awakened throughout the length and breadth of our common country, in the great questions therein involved. To no better evidence in proof of this assertion can we point than to the recent message of the Governor of this great State wherein we are now assembled—the 'Keystone' in the sublime arch, crowning the unity alike of our Republic and of American Medicine. In the broad, statesmanlike views therein enunciated, the immense power for good is clearly recognized, which resides in the State, and which can only be exercised by the State in promoting those healthful influences and bringing into play all those forces of sanatory science which are capable of counteracting the evils which civilization brings in its train. For while private enterprise is hastening after the acquisition of wealth, and applying all the resources of science in its production, so also should recourse be had to science by the State for protection against the evils which the hurtful, because selfish, spirit of enterprise is continually engendering. And so clearly defined are now the methods by which these conditions can be fulfilled, that we may safely measure the real rank which a State holds in the scale of civilization, by the attention it bestows on public hygiene.

"It would be out of place, neither is it conceived necessary for your

committee, at this time, to reinforce the enlightened representatives of our profession here assembled with reasons, beyond those with which they are all already familiar, for more active endeavors in the sanative field of science. The facts and deductions that from year to year have been so ably and so clearly pressed upon your attention by means of the able reports on medical topography and vital statistics recorded in our transactions, point unmistakably to the close relationship between rational medicine and sanitary science. They illustrate, either by figures or facts, the sad ravages from premature death upon whole communities by preventable diseases—the result of non-conformity to the laws of hygiene. They show that the diseases bred of malaria are rife among us. They point to the pallid, tuberculous artizans of our overgrown cities; to their slaughtered infants; and to the unhappy fallen women, and the demons of debauchery, who meet us at every turn.

“Now, no amount of individual effort or of medical skill can do what is wanted in the premises. Earnest, combined action, not only in but out of the profession also, is what is wanted to secure to the great masses of the people the first conditions of a sound sanitary state; to arrest the propagation of infectious disorders; to prevent over-crowding in dwelling houses, and over-tasking in schools and manufactories; to furnish an adequate supply of fresh air and potable water, and otherwise to provide against the new dangers to health and to life which the progress of population, consequent upon the increase of wealth, is continually introducing. Without extrinsic aid, however, it is believed that we can effect comparatively but little. The influence and moral power even of medical men are limited, and it is in fact impossible for those in large practice, with all the anxieties which such practice necessarily entails, to give to questions of a public nature the time and consideration their importance demands. What seems to be required, therefore, to meet the necessities of the case, is a thoroughly well organized department of health, connected with Government, under the surveillance of this association, and charged with the duty of superintending a sanatory system, to which our Municipal and State Boards of Health shall be subsidiary, just as our county and State societies are to this organization.

“Through the instrumentality of such State Boards of Health as now inaugurated in Massachusetts, California, Minnesota, and Virginia, a body of medical men will be provided for, who will thus be enabled to withdraw from the engrossing demands of private practice, and to devote themselves to the special study of sanitary questions; and in order to secure a constant supply of competent physicians to this end, there should be instituted in our medical schools full and complete courses of instruction in State medicine.

“As the phrase “State Medicine” is perhaps imperfectly understood by many of the profession, and is absolutely new to the general public, we would here parenthetically, to give an idea of what it is, quote the list of subjects which have been suggested as properly appertaining to it by a committee of the General Medical Council of Great Britain. They are: Forensic Medicine, Toxicology, Morbid Anatomy, Psychological Medicine, Laws of Evidence, Preventive Medicine, Vital and Sanitary Statistics, Medical Topography, and certain portions of Engineering Science and Practice. In short, as a member of the committee well expresses it, State medicine consists in the application of medical knowledge and skill to the benefit of communities; which is obviously

a very different thing from their application to the benefit of individuals in private or curative medicine.

"The course of lectures to which we have just referred, might be open for the instruction of the public generally, and particularly school teachers, trained nurses, and sanitary inspectors. This proposition can the more easily be acted upon because our knowledge of the whole subject is now not only sufficiently advanced and possessed of scientific accuracy, but is also of a character that lends itself with peculiar facility to popular exposition. One great difficulty which officers of health experience everywhere, is, that they rarely obtain official information of epidemic disease, even in their own districts, until they see deaths registered against it, when it is obviously too late to adopt measures for prevention. Now, if the intelligent coöperation of the laity was secured, not only would the obstructive effects of present ignorance and apathy, to a great extent, be got over, but, by wise and active combination, we would be enabled to crush out, in their very incipency, those fearful infections which become almost uncontrollable if not checked in their onset. There is no longer any doubt but that, whatever may be the vagueness of our conjectures or the strife of our controversies respecting the real nature of contagion, of air poisons, or of marsh miasm—be they organic germs, capable of indefinite multiplication or proliferation, when once imbedded in an appropriate nidus, or be they new combinations of proximate principles generated out of death, decay, and disintegration—sanitary science has, either by making their habitats untenable and incapable of maintaining their noxious life, or by chemically decomposing them as morbid matter, in many instances disarmed them of their terrors.

"Typhoid fever offers, perhaps, the most striking illustration of this position. Not only is the law of its propagation perfectly understood, but the excreta by which almost exclusively its deadly germs are sown throughout society, are, on their issue from the body, entirely within our control. To disinfect these excreta has been found almost infallibly to prevent the fever from spreading. The same may be said in regard to Asiatic cholera. The subtle and volatile poison of scarlatina is disarmed of its virulence, by guarding against its desquamative scales during convalescence. The limitation of diphtheria, by precautions of a similar nature, in well ordered households at any rate, is a matter of the greatest certainty.

"Diffuse the discovery of the means of protection against these and many other diseases which have been perfected under the vigilant outlook and investigation of combined chemical and microscopic detectives; extend what has been successfully applied to circumscribed communities to States and to Nations; let facilities for concerted action be established internationally through the instrumentality of Governments, and the people will no more be decimated by those pandemic waves which have so often swept with cumulative impetuosity over the face of the earth. Utopian as the idea may at first sight appear, of stamping out the great anti-sanitary evils which beget disease, still it would be taking a very limited view of the power of the human mind, and argue a strange obliquity of vision as to the lessons its triumphs in other fields are every day teaching us, to doubt our ultimate ability to do so. 'That man, who is rapidly subduing all the most Titanic forces of the universe to his commonest uses, should always remain at the mercy of

these ignoble things, is an antithesis too extreme to be permanent.'⁽¹⁾ The Government of the United States has already done something in the direction toward which these suggestions tend, by the establishment of a Bureau connected with the War Department, which makes constant synopses of the weather, storm currents, and other meteorological phenomena occurring in some of the most prominent parts of the Union. Let the operations of the 'Signal Service' be so extended as to reach the remotest expansions of the Republic; and while there shall be sent from the capital of every State and Territory full telegrams of the daily travail of nature in all her parts to the federal head, let the respondent wire report back simultaneously everything of scientific interest to the physician as well as to the physicist.

"The important results that will follow when this labor of devotion to science shall be taken up and carried out from America to Europe, and the two continents made to exchange their daily records of disease and weather reciprocally, may be imagined, but cannot be conceived in their illimitable applications. Not only will storm-currents be indicated hours, if not days, in advance of their actual presence, but all the meteoric and other phenomena attendant upon the appearance of diseases will be noted and heralded, so that the progress of the latter may be combatted in their small beginnings, before they gain a foothold in the land;—and thus, while from the concomitant observations of an expanded horizon the origin and advance of epidemics will be made more apparent than they now are, so will their latent relationship to some great cosmic or telluric laws be probably discovered.

"It is peculiarly fitting for us, who glory in the fame of our Franklin and our Morse; it is due to our own share, as Americans, in that fame, and to our own interests in the great results to the world of their grand inventions, that we should be the first to establish such systems of intercommunication as they have rendered practicable among ourselves and among the nations of the world, as will lead to a strictly correlative achievement in putting the plagues of nature under our feet, by the subjection we possess of the powers of nature to our will.

"In conclusion, your committee respectfully ask to be continued, and to constitute a special section on 'State Medicine and Public Hygiene,' to which all subjects cognate thereto may be referred. Also, that they be empowered to take such action, in connection with the authorities at Washington, as in their judgment may be deemed expedient in carrying out the objects of the resolutions."

With the exception of the last sentence, my report—as above—was also unanimously adopted, and the committee continued. Before the expiration of another year, the professional interest in this question had increased to such a degree, and the store of collateral information had become so accumulated and urgent, that a general awakening of the public mind resulted throughout the whole United States in favor of the proposed scheme. In evidence of this, I can, not only point to the organization of a Public Health Association by leading scientific, as well as medical men, and to the recent introduction, in the last Congress, of a bill for the establishment of a National Sanitary Bureau, approved by said Public Health Association, but also to the organi-

(1) Dr. William Budd, of England, many of whose forcible thoughts have been adopted in this report.

zation of a special section on Public Hygiene and State Medicine, and the adoption of the following resolutions at the late meeting of the National Medical Association, in May last, in St. Louis:

"Resolved, That in the judgment of this association, the establishment of a National Sanitary Bureau, with relations to the General Government similar to those of the Bureaus of Agriculture and Education, is highly desirable as a means of promoting sanitary science and the protection of the public health.

"Resolved, That this association request of the United States Educational Bureau to so extend the scope of its inquiry as to include vital, disease, and mortality statistics in relation to local, meteorological, and geological influences, and to disseminate the information so collected throughout the country."

The following is the bill referred to for the establishment of a National Sanitary Bureau:

"FORTY-SECOND CONGRESS—THIRD SESSION.

"In the Senate of the United States, December thirteenth, eighteen hundred and seventy-two, Mr. Patterson asked, and by unanimous consent obtained leave, to bring in the following bill, which was read twice, referred to the Committee on Education and Labor, and ordered to be printed—'A Bill to Establish a Bureau of Sanitary Science.'

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be established, at the seat of government of the United States, and attached to and under the direction of the Department of the Interior, a Bureau, to be denominated a 'National Sanitary Bureau,' the general design and duties of which shall be to acquire and diffuse among the people of the United States useful information on subjects connected with the preservation of the public health, and to aid in the establishment and management of efficient sanitary and quarantine systems and regulations throughout the several States and Territories of the United States.

"SEC. 2. That there shall be appointed by the President of the United States, by and with the advice and consent of the Senate, an officer, to be known as the Commissioner of the National Sanitary Bureau, who shall be the chief executive officer of said bureau, and who shall receive for his compensation a salary of ——— dollars per annum.

"SEC. 3. That it shall be the duty of the Commissioner of the National Sanitary Bureau to acquire and preserve in his Bureau all information which he can obtain by means of books and correspondence, and by practical and scientific experiments (accurate records of which experiments shall be kept in his office), by the collection of statistics, and by every other means in his power, concerning the following subjects:

"Medical geography, including climates, marine or littoral, upland or inland, mountain; their diseases, including thoracic and glandular zone, intermittent zone, gastric zone; hydrology, including saline, alkaline, chalybeate, hot springs.

"Diseases of animals and cereals, including cattle plague, rot in sheep, cerebro-spinal meningitis in horses, rust in wheat, potato rot, rye and corn fungi, with soil analysis.

"Diseases of artisans from indoor confinement, over-crowding, and

absence of sunlight; from contaminated atmosphere by mechanical impurities (cotton, wool, dust, and so forth); from chemical impurities (mechanical vapors, arsenic, phosphorus, lead, and various pigments); diseases of other callings and professions.

"Certain zymotic diseases, including typhus, scarlatina, rubeola, their causes and prophylaxis.

"Smallpox, cholera, yellow fever, including causes, prophylaxis, or modification; investigations of all questions bearing upon vaccination as a preventative or modifier of smallpox; the adoption of suitable means of procuring, preserving, and distributing to physicians and public institutions, free of charge, vaccine matter of unquestioned purity; the investigation of cholera and yellow fever, their causes and prevention; and the collecting, digesting, and distributing information on these subjects.

"The registration of mortuary statistics, including color, sex, race, and so forth.

"The causes of disease, including the nature of disease-germs, aerial, animal, and contagious.

"The best means of preventing the ingress of foreign epidemics, and of extending aid to State quarantines.

"The proper sanitary condition of various modes of public conveyance on land and water.

"Sewerage, and nuisances in general.

"Proper sanitary regulations as to the transportation of persons afflicted with contagious diseases

"The sanitary condition of public schools, hospitals, charities, manufactories, and so forth; and proper regulations for the preservation of health therein, including hours of study in proportion to age, air-space, ventilation, heat, light, vaccination, and so forth.

"Unwholesome food and drink, with the means of preventing and correcting the use of the same.

"Chemistry, microscopy, mechanics, in their relations to various subjects of investigation.

"The collection of a library for said Bureau to consist of standard works on all subjects of public hygiene; reports of Boards of Health, Superintendents of quarantine, public officers, and others, on sanitary matters, pamphlets essays, original papers, and so forth.

"Sec. 4. That it shall be the further duty of the Commissioner of the National Sanitary Bureau to make annually a general report, in writing, of his acts, to the President and to Congress, in which he may recommend the publication of papers, part of, or accompanying his report; to make special reports, on particular subjects, whenever required to do so by the President or either House of Congress, or when he thinks the public necessity demands it; to direct and superintend the expenditure of all moneys appropriated by Congress for the support of said Bureau, and render full and accurate reports thereof; and the said Commissioner may send and receive through the mails, free of charge, all communications and other matter pertaining to the business of his office, not exceeding in weight thirty-two ounces.

"Sec. 5. That there shall be appointed for duty in said National Sanitary Bureau, whatever additional officers are required, including a chief clerk, chemists, experts, and so forth, whose salaries shall be ———, and who shall, together with the Commissioner, give bonds for the faithful performance of their duties."

Without assuming to pass judgment upon this particular bill in all its provisions, which failed in its final passage, its scope and intent are, at least, to be commended. As recited therein, the general design and duties of the National Sanitary Bureau shall be to acquire and diffuse among the people of the United States useful information on subjects connected with the preservation of the public health, and to aid in the establishment and management of efficient sanitary and quarantine systems and regulations throughout the several States and Territories. That it has failed to become a feature of our National Administration is due, for the most part, to the little general interest it possesses for politicians, and to the lack of active efforts in divulging the facts bearing upon its elucidation. Meanwhile, the organization of a special section, consisting of one member of the American Medical Association from each State in the Union, on Public Hygiene and State Medicine, is an accomplished fact. Composed, as it is, of gentlemen specially devoted to sanitary studies, and to the practical application of public hygiene, and numbering among its members a majority of the sanitary Superintendents, Secretaries, and other officers of Boards of Health, of cities and States, it is eminently qualified to discuss intelligently, and settle all questions relating to science, policy, and modes of work, and thus secure harmony and coöperation. As a legitimate sequence of growth from their action, a Central Bureau, at Washington, will become a necessity.

Instead of being a mere adjunct to the Department of the Interior, there seems no good reason why such a bureau should not, before long, be erected into an independent department, second in its influence and importance to none other. Let us have a Secretary of Public Health, as well as a Secretary of War. The achievement of this great national undertaking, as of every other great and good work among men, can only be effected by time and patience, by rational inquiry, and enlightened perseverance. Until this is accomplished, each State must form a plan for the gathering of its own vital statistics, suited to its own circumstances, and must use for this purpose the means it may possess, and the machinery already in operation.

California has adopted a system of registration which, it was supposed, would be best suited, in an economical point, to its internal organization, and domestic and social regulation. In another part of this report, as already stated, will be found the Chapter containing the laws referred to, with such suggested amendments as experience has shown to be necessary. But, although the plan of gathering these statistics may be different in each State, there has not been, in our instance, nor need there ever be, any variation with regard to the arrangement of the mortality statistics. One uniform classification of diseases has been recommended by the American Medical Association, and the form resorted to in the compilation of this report, conforms in all essential particulars with the nomenclature, which the census tables—that have been used as a standard for reference and comparison—completely exemplify. By means of the commendable coöperation of the members of the medical profession in various parts of the State—whose names will appear in Table No. 1—I am now enabled to supplement, for such as it was expected would be furnished through the instrumentality of the registration laws, the following

MORTALITY STATISTICS.

Pursuing the plan adopted in our last biennial report for eighteen hundred and seventy and eighteen hundred and seventy-one, I have prepared similar tables for the succeeding twelve months, illustrated by diagrams and maps, (1) showing, as completely as it is possible to do under existing circumstances, the death-rate in twenty-six of the principal cities and towns of the State, as well as the total mortality from all causes, and from certain principal diseases severally and in groups, with the proportion to deaths from all causes, and to population—*i. e.*, the prevalency and fatality of certain diseases.

It is a cause of much satisfaction to find that the results thus obtained are, for the most, confirmed and verified by the census, which affords the material for determining the death-rate, and of making other deductions more completely and accurately than our own fragmentary statistics. Many important conclusions may now be derived with more assurance from these sources, collectively, notwithstanding the imperfect condition of our own data, and our inability to apply, as skillfully as has been done in the instance of the census, the power of science, by reconstruction and reconstitution, in supplementing the missing parts and restoring the lost links of connection.

(1) The maps have been compiled from the United States Census, 1870.

TABLE No. 1.

Showing the total mortality, as well as that by the most prevalent diseases, in twenty six localities, comprising nearly half the population of the State, with the ratio of deaths to one thousand of population, from July, eighteen hundred and seventy-one, to June, eighteen hundred and seventy-two, inclusive; also, the authorities for the data.

LOCALITIES.	Population	Total number of deaths.....	Ratio of deaths per one thousand of population	PREVALENT DISEASES.						AUTHORITIES.
				Consumption	Other diseases of lungs..	Diseases of stomach and bowels.....	Diphtheria	Scarlatina.....	Typho-malarial fevers..	
San Francisco.....	150,351	2,998	19.9	511	238	181	26	16	136	San Francisco Board of Health.
Sacramento.....	16,298	331	20.4	47	29	23	3	2	11	.....Sacramento Board of Health.
Petaluma.....	3,514	41	11.7	7	1	5	.....	.....	3	.....G. W. Graves, M. D.
Dixon and surroundings.....	5,000	16	3.2	2	5	1	.....	.....	.....	.....R. H. Plummer, M. D.
Stockton.....	10,033	131	13.1	21	6	28	1	2	2	.....Stockton Board of Health.
Marysville.....	4,375	97	22.2	20	10	6	.....	.....	15	.....C. E. Stone, M. D.
Placerville.....	1,562	34	21.7	4	.....	3	.....	.....	5	.....E. A. Kunkler, M. D.
Auburn and surroundings.....	2,500	15	6.0	4	1	2	.....	1	1	.....A. S. Dubois, M. D.
San Diego County.....	4,957	56	11.3	18	1	9	.....	.....	2	.....County Medical Society.
Oroville and surroundings	1,500	18	12.0	4	8	1	.....	.....	2	.....J. M. Vance, M. D.

Woodland.....	2,200	16	7.3	6	1	.....	.....	1	2	.....A. B. Mehring, M. D.
Oakland.....	11,104	112	10.1	15	12	11	.....	.....	.....	.....T. H. Pinkerton, M. D.
Los Angeles and surroundings...	12,000	293	24.4	37	16	12	.....	.....	12	.....H. S. Orme, M. D.
Truckee and surroundings.....	1,220	17	13.9	6	1	4	.....	.....	1	.....William Curless, M. D.
St. Helena and surroundings.....	3,000	15	5.0	4	1	1	.....	.....	1	.....J. S. Adams, M. D.
Napa City.....	4,000	38	9.5	5	2	2	4	.....	1	.....M. B. Pond, M. D.
Watsonville.....	2,000	5	2.5	.....	.....	1	.....	.....	.....	.....C. E. Cleveland, M. D.
Folsom and surroundings.....	3,000	6	2.0	1	2	.....	.....	.....	.....	.....L. McGuire, M. D.
Bridgeport Township.....	3,000	7	2.3	.....	1	.....	.....	.....	.....	.....J. L. Asay, M. D.
Santa Barbara.....	2,987	73	24.4	19	6	5	.....	.....	3	.....C. B. Bates, M. D.
Redwood City.....	2,500	23	9.2	5	1	1	2	.....	3	.....C. A. Kirkpatrick, M. D.
Trinity County.....	3,000	21	7.0	2	3	2	.....	1	1	.....J. C. Montague, M. D.
Monterey.....	1,112	9	8.1	1	.....	1	.....	.....	.....	.....C. A. Canfield, M. D.
Santa Cruz.....	3,000	36	12.0	9	3	4	1	.....	.....	.....C. L. Anderson, M. D.
Suisun and Fairfield.....	5,000	23	4.6	3	2	2	.....	.....	.....	.....S. D. Campbell,
Colusa and surroundings.....	2,500	24	9.6	3	4	4	.....	1	3	.....Luke Robinson, M. D.
Twenty-six localities.....	261,714	4,464	17.1	754	356	309	37	24	204	

In the above table (No. 1) is shown as completely as it is possible to do under existing circumstances, the death-rate in twenty-six of the principal cities and towns of the State, as well as the total mortality by all causes in these localities, and the deaths and percentage of deaths by some of the most generally prevalent diseases. The population of these cities and towns, in several instances, has been put down in accordance with the estimate of the population within the radius of the practice of the medical gentlemen furnishing the monthly reports of mortality, but, for the most part, it is taken from the late United States decennial census, and amounts in the aggregate to two hundred and sixty-one thousand seven hundred and fourteen, or nearly half the population of the State; and the ratio of the total number of deaths per one thousand is 17.1; or one death to every fifty-eight persons. The twelve months covered by the tables reveal a total mortality of only ninety-two and a half per cent of the preceding year (which was also a very healthy season), notwithstanding the annual increase of population, and are thus proved to have been the most favorable, in a sanitary point, since the American settlement of the country, and will constitute a standard of comparison for determining the health status of the State and of these localities for all coming time. It is further demonstrated by the variation in the death-rate of these different localities, that different causes are at work; and in the search for these and their remedies we proceed from the general to the special—from the numbers of deaths in the year to those by months; also, the sex, race, age, and nativity, as may be seen in the accompanying table.

The large disproportion of the sexes is the first feature in Table No. 2 that strikes attention—there being more than twice as many deaths of males as females; seventy-three per cent of the former, and twenty-seven per cent of the latter. This ratio prevailed to a much greater degree formerly, owing to the great rush of male adventurers without their families, who were supposed to be better able to endure the hardships of immigration into a new country. By referring to Table No. 3, compiled from the United States Census, it will be seen that about the same disproportion obtains in all the new States and Territories. Still, the ratio of deaths for males continues decidedly in excess of that for females; for the males comprise about sixty-two per cent of the population, and, as first stated, seventy-three per cent of the deaths are of males. It would naturally be supposed that with his more vigorous frame and sturdier make, the vitality of the male would be greater than of the female, his average life longer, his greatest age greater. That it is not so, however, is a problem which science has not yet solved. This law of population holds good in every country of which we have any statistics; about five per cent more males than females are born, but at five years of age more girls are alive than boys. Again, at every period of life, the "expectation of life," as insurance companies term it—that is, the average term yet to live—is greater in women than in men. And, finally, of very old persons, the large majority are women. So true is this, that the last census of France shows that at the age of ninety years, there were three women to two men, and at the age of one hundred, the number of women was more than sixteen times the number of men. (1)

In the following table, which has been abstracted from the United States Census, for the purpose of affording a comparative view of the mortality of every State and Territory, with distinction of sex, it will

(1) George H. Naphey's *Counsels on Nature and Hygiene*.

TABLE No. 2.

Showing the total mortality from July, eighteen hundred and seventy-one, to June, eighteen hundred and seventy-two, inclusive, by sexes, race, months, ages, and nativities.

CITIES, TOWNS, Etc.	Total Deaths.	SEX.		RACE.		MONTHS.												AGES.										NATIVITIES.					
		Male	Female	White	Copper	Black	July	August	September	October	November	December	January	February	March	April	May	June	Under one year of age	One and under five years	Five and under ten years	Ten and under twenty years	Twenty and under thirty years	Thirty and under forty years	Forty and under fifty years	Fifty and under sixty years	Sixty and under one hundred years	Unclassified	Pacific States	Atlantic States	Foreign countries	Unclassified	
San Francisco	2,998	2,007	991	2,591	359	48	230	247	248	300	238	245	226	243	256	255	263	247	655	283	75	114	372	511	490	279	212	7	1,034	452	1,487	25	
Sacramento	331	210	121	288	35	8	28	28	34	32	27	24	20	26	21	25	26	40	51	32	14	10	52	47	53	37	27	6	100	101	128	2	
Petaluma	41	23	18	39	2	2	2	5	1	7	3	2	5	3	1	0	2	4	3	3	3	1	1	2	1	1	1	0	21	15	5	1	
Dixon and surroundings	10	10	6	16	1	1	1	1	0	0	0	1	1	1	1	0	1	3	3	0	0	0	0	0	0	0	0	0	58	34	32	2	
Stockton	131	88	43	116	12	8	11	10	11	11	12	10	8	9	8	5	10	17	13	10	14	3	13	23	21	11	9	6	25	33	48	8	
Marysville	106	68	37	80	21	5	10	7	9	8	16	9	10	4	8	7	9	9	13	8	3	4	10	17	21	13	6	6	2	14	12	8	2
Pacerville	34	22	12	34	1	0	0	0	0	0	3	7	0	0	0	0	2	3	1	3	3	1	3	3	3	3	3	0	18	19	16	3	
Auburn and surroundings	15	11	4	14	1	1	2	5	4	11	2	10	5	2	3	5	6	1	2	3	3	1	3	5	3	3	3	0	3	11	4	.....
San Diego County	56	41	15	55	.....	.....	0	0	0	0	0	7	4	5	0	0	0	2	1	1	1	1	3	3	3	3	1	0	1	5	9	.....
Orville and surroundings	18	17	1	18	1	0	1	0	0	1	0	1	2	5	4	0	0	0	0	0	1	1	1	1	1	0	1	46	37	27	2
Woodland	16	12	4	16	.....	.....	1	0	1	0	0	1	0	1	8	0	0	1	2	3	3	0	1	3	3	3	3	0	46	37	27	2
Oakland	112	60	52	102	7	3	5	8	10	11	8	4	6	10	9	10	17	27	27	14	13	13	14	15	8	11	0	1	161	40	58	4	
Los Angeles and surroundings*	293	187	106	239	53	1	12	17	21	46	29	31	17	24	17	20	30	29	50	40	12	14	31	52	30	15	17	23	161	40	58	4	
Truckee and surroundings	17	14	3	17	.....	.....	4	2	2	2	0	0	0	0	2	1	0	4	7	1	0	2	3	4	3	3	1	1	0	8	7	.....
St. Helena and surroundings	15	9	6	15	.....	.....	1	2	2	3	5	3	1	1	0	2	5	5	0	5	6	1	4	6	3	2	2	1	14	16	8	.....
Napa City	38	22	16	33	4	1	6	4	3	0	0	0	0	0	1	1	0	1	1	1	0	0	0	1	1	1	1	0	2	1	.....	
Watsonville	5	3	2	5	.....	.....	0	0	1	0	0	0	0	0	3	2	0	0	1	0	0	0	0	1	2	0	0	0	2	3	2	1
Folsom and surroundings	6	4	2	5	1	.....	2	0	0	0	0	0	2	0	3	0	0	0	2	0	0	0	0	0	0	0	0	0	50	14	9	.....
Bridgeport Township	7	.....	.....	6	.....	.....	6	4	0	4	10	4	11	5	3	4	8	6	10	12	0	4	14	11	5	6	5	0	12	7	.....	
Santa Barbara	73	48	25	68	5	.....	6	0	2	10	4	11	5	3	4	8	6	1	1	1	2	4	1	1	1	1	1	0	6	8	7	.....
Redwood City	23	14	9	23	.....	.....	6	0	2	2	1	3	4	2	0	0	0	2	1	4	5	2	0	0	1	5	6	3	0	6	5	.....
Trinity County	21	20	1	20	1	.....	1	2	3	2	1	0	0	0	0	0	0	1	1	1	1	0	1	2	1	1	0	0	19	12	5	.....
Monterey	9	7	2	5	4	.....	1	1	1	2	0	0	0	0	0	0	0	1	3	12	5	1	1	1	7	4	1	4	4	13	6	.....
Santa Cruz	36	21	15	36	.....	.....	5	0	2	4	4	4	0	0	2	5	0	3	5	1	1	2	3	4	7	2	2	0	4	13	6	.....
Suisun and Fairfield	23	18	5	19	3	1	5	1	2	4	4	0	1	0	0	2	1	3	4	1	1	1	1	1	4	7	2	3	4	11	5	.....
Colusa and surroundings	24	18	6	23	.....	.....	5	3	1	1	2	2	0	1	4	1	3	3	4	2	1	1	1	6	2	3	4	0	7	.....	.....
Totals of twenty-six localities	4,464	2,971	1,493	3,883	507	74	348	350	363	463	367	379	323	351	360	351	400	413	917	455	137	175	548	732	708	406	323	43	1,628	879	1,913	44	

* The extraordinary mortality in Los Angeles, during October, is due to a riot, in which nineteen Chinamen were killed.

be seen that the percentage of deaths to population in California is one tenth of one per cent less than by our calculation:

TABLE No. 3.

STATES AND TERRITORIES.	1870.				
	Population.	DEATHS.			Percentage of deaths to population.....
		Total	Males	Females.....	
United States.....	38,555,983	492,263	260,673	231,590	1.28
Alabama	996,992	10,771	5,637	5,134	1.08
Arizona.....	9,658	252	168	84	2.61
Arkansas.....	484,471	6,119	3,202	2,917	1.26
California.....	560,247	9,025	5,687	3,338	1.61
Colorado.....	39,864	375	232	143	0.94
Connecticut	537,454	6,796	3,550	3,246	1.26
Dakota.....	14,181	101	69	32	0.71
Delaware.....	125,015	1,561	827	734	1.25
District of Columbia.....	131,700	2,015	1,065	950	1.53
Florida.....	187,748	2,264	1,225	1,039	1.21
Georgia.....	1,184,109	13,606	6,990	6,616	1.15
Idaho.....	14,999	50	39	11	0.33
Illinois.....	2,539,891	33,672	18,141	15,531	1.33
Indiana.....	1,680,637	17,661	9,208	8,453	1.05
Iowa.....	1,191,792	9,597	5,117	4,480	0.81
Kansas.....	364,399	4,546	2,433	2,113	1.25
Kentucky.....	1,321,011	14,345	7,394	6,951	1.09
Louisiana.....	726,915	14,499	8,212	6,287	2.00
Maine.....	626,915	7,728	3,993	3,735	1.23
Maryland.....	780,894	9,740	5,085	4,655	1.24
Massachusetts.....	1,457,351	25,859	12,894	12,965	1.77
Michigan.....	1,184,059	11,181	5,771	5,410	0.94
Minnesota.....	439,706	3,526	1,949	1,577	0.80
Mississippi.....	827,922	9,172	4,788	4,384	1.11
Missouri.....	1,721,295	27,982	15,762	12,220	1.63
Montana.....	20,595	185	137	48	0.90
Nebraska.....	122,993	1,000	545	455	0.81
Nevada.....	42,491	615	423	192	1.45
New Hampshire.....	318,300	4,291	2,092	2,199	1.35
New Jersey.....	906,096	10,586	5,716	4,870	1.17
New Mexico.....	91,874	1,180	623	557	1.28
New York.....	4,382,759	69,095	36,740	32,355	1.58
North Carolina.....	1,071,361	10,588	5,142	5,446	0.98
Ohio.....	2,665,260	29,568	15,724	13,844	1.11
Oregon.....	90,923	622	337	285	0.69
Pennsylvania.....	3,521,791	52,639	27,961	24,678	1.49
Rhode Island.....	217,353	2,741	1,423	1,318	1.26
South Carolina.....	705,606	7,880	3,757	3,623	1.05
Tennessee.....	1,258,520	14,239	6,963	7,276	1.13
Texas.....	818,579	11,197	6,254	4,943	1.37
Utah.....	86,786	891	452	439	1.03
Vermont.....	330,551	3,545	1,804	1,741	1.07
Virginia.....	1,225,163	15,183	7,552	7,631	1.24
Washington.....	23,955	223	131	92	0.93
West Virginia.....	442,014	4,018	2,061	1,957	0.91
Wisconsin.....	1,054,670	9,960	5,339	4,621	0.94
Wyoming.....	9,118	74	59	15	0.81

With regard to race, the mortality of the black is nearly two per cent, while the black population, according to the United States Census, is less than one per cent of the whole. This shows a larger mortality than that of the whites, and is attributable to improvidence and ignorance. The mortality of the copper-colored races, which include Chinese and Indians, is about eleven per cent, while they constitute about ten per cent of the population. The white race is thus, by comparison, demonstrated to be the healthiest, and its mortality the least.

One of the most important and encouraging facts, indicative of the salubrity of our climate, and a better condition of society, is demonstrated in a smaller infantile mortality than in any other State or country. Less than one third (thirty-one per cent) of the decedents were under five years of age; and this holds good, as well for our larger cities, as for rural and smaller towns. The reason for felicitation in this respect will be more apparent, when it is considered how frightfully this infant mortality has increased all over the country, and especially in our larger cities. The largest increase was in Chicago. In the year eighteen hundred and forty-three, the death-rate of children under five years was only twenty-nine per cent of all the deaths; but it has slowly risen till in eighteen hundred and sixty-nine, it had reached to sixty-three per cent. Next to Chicago stands St. Louis, where last year the death-rate of children under five years was fifty-one per cent of the entire mortality. New York City is almost the same as St. Louis, and in the year eighteen hundred and seventy-one it was greater, that being an exceptional year, and amounting to over seventy-seven per cent. Next to New York stands Baltimore, with a percentage of fifty per cent, and then Cincinnati and Philadelphia, with forty-six per cent., and New Orleans, with forty-three per cent. Providence, R. I., shows only thirty-seven per cent, but that city has made sanitary knowledge a specialty.

Fortunately, for our race and country, this decimating mortality among the young is not equally as great in the rural districts of the United States. In Rhode Island, which shows the lowest rate, the registration reports in eighteen hundred and fifty-two, eighteen hundred and fifty-three, eighteen hundred and fifty-four, eighteen hundred and sixty-four, eighteen hundred and sixty-five, eighteen hundred and sixty-seven, and eighteen hundred and sixty-eight, seven years, give sixteen thousand and sixty deaths, of which one thousand five hundred and forty were under five years, which is 34.45 per cent of the whole number. In several other States, which it is unnecessary to enumerate, the same results, only in a more marked contrast, obtain in this respect; and to such a degree, that when the whole mortality of the United States is considered in the aggregate, the small mortality among children in the rural districts is sufficient to overcome the unfavorable reports of cities, and presents the following proportions, as shown by the United States Census:

CENSUS.	Total mortality in United States.....	Mortality under five years.....
Census of 1850.....	323,272	123,211
Census of 1860.....	392,821	168,235
Census of 1870.....	492,263	203,213

Doctor J. M. Toner, of Washington, who has compiled the above items for the census, remarks thus in relation thereto:

"It is, therefore, fair to infer from these data, which confirm individual experience, that there are causes operating in cities, unfavorable to the health and lives of children, that do not exist, or manifest themselves so disastrously, in the country. The causes that enfeeble or destroy human life in infancy are so manifold—constitutional, moral, and hygienic—that I will not attempt to enumerate them here. They are patent to all reflecting minds, and are constantly referred to in health reports."

The most healthy period seems to be between five and ten years, during which there occurred the least mortality, viz: one hundred and thirty-seven; and the next healthiest, the second decade, when one hundred and seventy-five died. In the three decades, between twenty and fifty years, as is the case in all mortality statistics, the greatest number of deaths, exclusive of the period of infancy, occurred; *i. e.*, two thousand and eight, or forty-five per cent of the total.

No account was taken of premature births or stillborn, nor do they enter at all into the computation.

Looking at the columns of nativities in our table, it will be seen that about forty per cent are foreign born, and nearly thirty-six per cent native born. This would leave twenty-four per cent natives of the Atlantic States, and unascertained.

There remains yet another important item of information to be derived from this table, and that is the mortality by months. It will be observed, that:

The greatest number of deaths occurred in October.....	463
The next greatest number of deaths occurred in June.....	413
The next greatest number of deaths occurred in May.....	400
The next greatest number of deaths occurred in December.....	379
The next greatest number of deaths occurred in November.....	363
The next greatest number of deaths occurred in September.....	363
The next greatest number of deaths occurred in March.....	356
The next greatest number of deaths occurred in February.....	351
The next greatest number of deaths occurred in April.....	351
The next greatest number of deaths occurred in August.....	350
The next greatest number of deaths occurred in July.....	348
The least number of deaths occurred in January.....	323
Total for twelve months.....	4,464*

It is readily seen that the greatest mortality was not coincident with the highest temperature, but occurred two or three months after this period. This fact will again be referred to when discussing the subject of meteorology. Proceeding from all causes to the special, may be traced through the progression of the months the fatal march of certain prevalent diseases.

* The slight discrepancies between some of the items in this report and in the article on "Mortality Statistics" in the Transactions of the State Medical Society, are caused by the reception of more complete information since the latter publication was printed. The same reason will account for certain trifling inaccuracies in the diagrams, which were engraved at the same time for both publications.

TABLE No. 4.

Comparative table of mortality of certain prevalent diseases, by months.

MONTHS.	1870-71.	1871-72.	1870-71.	1871-72.	1870-71.	1871-72.	1870-71.	1871-72.	1870-71.	1871-72.	1870-71.	1871-72.	1870-71.	1871-72.	1870-71.	1871-72.
	Consumption	Consumption	Other diseases of lungs.	Other diseases of lungs.	Diseases of stomach and bowels.....	Diseases of stomach and bowels.....	Diphtheria.....	Diphtheria.....	Scarlatina.....	Scarlatina.....	Typho-malarial fevers.	Typho-malarial fevers.	Total.....	Total.....	Total.....	Total.....
July.....	57	47	21	13	37	19	7	2	4	1	18	17	144	99.		
August.....	63	54	24	16	38	25	5	3	3	2	13	18	146	117.		
September.....	63	59	19	12	29	46	5	4	6	1	21	24	143	145.		
October.....	64	64	27	37	33	72	4	4	15	1	34	21	167	199		
November.....	64	64	33	40	18	13	9	6	15	1	43	23	182	147		
December.....	65	64	51	36	22	17	6	1	13	4	24	21	181	143		
January.....	85	68	48	20	9	10	9	1	15	3	30	11	196	113		
February.....	59	59	51	43	11	18	.....	3	6	4	13	14	140	139		
March.....	70	74	42	35	12	10	2	.....	4	3	13	18	143	143		
April.....	69	73	22	38	8	9	4	.....	4	1	7	11	114	132		
May.....	55	78	23	33	33	31	1	12	4	1	8	16	124	171		
June.....	60	50	19	33	30	39	1	2	4	2	13	10	127	186		
Totals	774	754	380	356	270	309	53	37	93	24	237	204	1,807	1,684		

Of the causes of these deaths, the largest number, seven hundred and fifty-four, occurred from consumption; the greatest mortality of this disease being seventy-eight, in May, eighteen hundred and seventy-two, and the least, forty-seven, in July, eighteen hundred and seventy-one. The means of these periods, compared with our former report of the State Board of Health, shows an improvement, within a small fraction of twelve per cent. For the purposes of comparison, and in order that the remarkable similarity of the mortality of the two years may be seen at a glance, the monthly deaths of the previous year are placed in the left hand column.

From other diseases of the lungs, the greatest mortality, forty-three, was in February, eighteen hundred and seventy-two, and the least in September, eighteen hundred and seventy-one. The mean of these periods, compared with the former report, just referred to, shows an improvement of more than twenty per cent.

From diseases of the stomach and bowels, the greatest number, seventy-two, died in October, eighteen hundred and seventy-one, and the least, nine, in April, eighteen hundred and seventy-two. The mean, compared as above, shows an increase of seventy-six per cent.

The greatest number of deaths by diphtheria was twelve, in May, eighteen hundred and seventy-two, against nine in November, which was the most fatal month in eighteen hundred and seventy-one, and the least, none, in April, eighteen hundred and seventy-two.

Scarlatina proved most fatal in December, eighteen hundred and seventy-one, and February, eighteen hundred and seventy-two—four deaths in each month; while our former report showed three most fatal months, viz: October, November, and January—fifteen each. The least fatal months by this disease show only one death each for six months, namely: July, September, October, and November, eighteen hundred and seventy-one, and April and May, eighteen hundred and seventy-two; while the least fatal six months of our last report were five months of four each and one of three; total, twenty-three, against six for a corresponding period in eighteen hundred and seventy-one and eighteen hundred and seventy-two.

Typho-malaria fevers proved most fatal (twenty-four-deaths) in September, eighteen hundred and seventy-one, and least fatal (eleven deaths) in January and April, eighteen hundred and seventy-two. Forty-three and seven were the amounts for the corresponding most fatal and least fatal months, of March and April, in the last report.

From all the most prevalent diseases, the greatest number, one hundred and ninety-nine, died in October, eighteen hundred and seventy-one, which, as has already been seen, was also the most fatal month in the general total; the least number, ninety-nine, in July, eighteen hundred and seventy-one, corresponds with the month's least number in the general total.

The greatest number from prevalent diseases, in any month, in last report, was one hundred and ninety-six in January, eighteen hundred and seventy-one; the least, one hundred and fourteen, in April, eighteen hundred and seventy-one, or fifteen per cent more than our present report. Altogether, these results show a marked diminution of the mortality in the State, and consequently an increase in the average duration of life, which may be largely credited, in addition to climatic influences, to the advanced general intelligence, the multiplication of comforts, the hygienic and other measures for the better protection from the elements, as well as from the causes of disease, the abundant supply of wholesome

food, and all the inventions for exhaustive labor-saving, which, as well as the improvement of morals, we are accustomed to sum up in one phrase, as "the progress of civilization."

Unfortunately, owing to the difficulties which attend a correct diagnosis, such as the less definite employment of nosological nomenclature, which allows many deaths to be credited to the wrong disease, and the shameful fact that the most ignorant non professional persons are permitted to give a certificate of death, but little reliance can be placed on such statistics as to special diseases. They may be trusted, nevertheless, in regard to total mortality, and to such particular diseases as consumption, diseases of the lungs, and of the stomach and bowels, and typho-malarial fevers, which are popularly well known, and to which I have chiefly confined my investigation. My present purpose is only to show, in as condensed a form as possible, by means of tables and diagrams, a few of the practical facts investigated in such researches.

The most reliable and valuable of these are: First—The ratio of annual deaths to the population, or the death-rate. Second—The ratio of the deaths by certain special diseases to the population, and to the death-rate—*i. e.*, the prevalency and fatality of certain diseases.

It must be borne in mind, however, in drawing any conclusion from the important class of facts here presented, that the difference which exists between the ratio of deaths by a particular disease to the total population and the total deaths, proves a frequent cause of error.

To illustrate: The ratio of deaths by consumption in Marysville is very large, while this ratio to the total deaths is comparatively small, and for the reason that the total of all deaths in Marysville is comparatively very large. Observations of this small ratio in the one case, without proper consideration of the larger ratio in the other, might induce many to make the erroneous assertion that consumption was not so fatal here as it really is shown to be. Of course, here, as well as in Santa Barbara, the mortality by consumption, as well as the total mortality, is exaggerated by extraordinary causes—the advent of the phthisical and other sick, in search of a more favorable climate, which invalidate any legitimate deductions as to local salubrity.

In order to arrive at a distinct comprehension of the bearing of figures in the foregoing tables, it must be borne in mind that the limit of percentage of deaths which statisticians agree to be unavoidable, is eleven to one thousand; all above this rate they hold to be preventable by precaution, in healthy countries. In rare instances the rate falls below the necessary limit, as, for example, in Michigan, where it was as low as eight to the thousand in eighteen hundred and seventy. I am not aware, however, that what is termed the necessary rate has ever been reached in cities. Mortality is always much greater where the population is dense, and in London the standard sought to be obtained is seventeen in one thousand, though, in fact, this has thus far always been exceeded. In practice it is generally conceded that city-mortality, when under twenty, shows a very high rate of health. When varying between twenty and twenty-five, it shows a fair standard of health; and when reaching thirty, it shows an alarming degree of sickness. In Massachusetts, in eighteen hundred and fifty-eight, the death-rate was twenty and two tenths per one thousand. In California, for eighteen hundred and seventy and eighteen hundred and seventy-one, it was about eighteen and eight tenths per one thousand, and in the accompanying tables for eighteen hundred and seventy-one and eighteen hundred and seventy-

two, it is shown that the death-rate has declined to seventeen and one tenth per one thousand.

To afford the means of forming a judgment respecting the salubrity of other points of the State, when compared with foreign countries, the annexed Table No. 5, based upon data furnished in Motard's "Traité d'Hygiene Generale," and compiled from the "Handbuch der Medicinischen Statistik," of Osterlen, and "Allegemeine Bevolkorungs Statistik" of Wappæus, is here copied from the last year's report of the State Board of Health:

TABLE No. 5.

Relative mortality.

COUNTRIES.	In cities, one in.....	In rural districts, one in
France, 1858	35.10	44.30
England, 1850-1859.....	37.44	54.34
Holland, 1850-1854.....	35.55	43.03
Belgium, 1851-1855.....	34.35	44.31
Sweden, 1851-1855.	28.95	46.86
Denmark, 1850-1854	37.41	49.77
Prussia, 1849.....	27.97	34.46
California, 1870-1871	49.45	130.77

The mortality of the great cities of the Union for eighteen hundred and seventy-one was stated, in the last report of the State Board of Health, as follows, per one thousand: St. Louis, twenty-one and three tenths; San Francisco, twenty-one and four tenths; Boston, twenty-four; Chicago, twenty-four and five tenths; Philadelphia, twenty-five and five tenths; Baltimore, twenty-seven and one tenth; New York, twenty-nine and three tenths; New Orleans, thirty-seven and six tenths. It will be noticed that, according to the rule given above, the mortality of New Orleans was enormous; but this is, in a great measure, accounted for by the fact that in the year referred to, yellow fever and smallpox carried off at least a fifth of all who died during the twelve months. In the annual report of the Board of Health of Louisiana, I find the death-rate of eighteen hundred and seventy-one to be twenty-eight and six tenths per one thousand. St. Louis was noted, in our last report, as the healthiest large city in the world. During the year eighteen hundred and seventy-one, the mortality was only one and sixty-seven hundredths per cent, or sixteen and a fraction per one thousand of the population. San Francisco was regarded as the second healthiest city of the eight mentioned above. Its mortality is put down in our present table at nineteen and nine tenths per one thousand. This calculation is based upon the United States Census for eighteen hundred and seventy. The compiler of the San Francisco Directory, from carefully collected statistics, placed the population at one hundred and seventy-eight thousand two hundred and seventy-six. The year previous it was one hundred and seventy-two thousand seven hundred and fifty. Taking a mean between these two, as the average population during eighteen hundred

and seventy-one, the per thousands of deaths was sixteen and nine tenths. In like manner, estimating the present population at one hundred and ninety-five thousand, and the mean population for eighteen hundred and seventy-two at one hundred and eighty-six thousand, the death-rate for the year just passed will be sixteen and nine tenths per thousand. Dr. Gibbons, from whom I here quote, says, "even if this estimate be based on an exaggeration of the population, which is by no means admitted, and we take as the standard the United States Census returns of one hundred and fifty thousand, in eighteen hundred and seventy, the showing will then be but eighteen and five tenths per one thousand." The same reasoning will apply to Sacramento. The calculation of our present table is also based upon the United States Census for eighteen hundred and seventy. A more recent city census shows the number of resident inhabitants to be nineteen thousand six hundred and thirty-nine, and, without adding for the increase in population, this would reduce the rate to sixteen and nine tenths per one thousand, and thus place Sacramento on a par with St. Louis. Of the larger country towns, Petaluma carries off the palm in point of salubrity. Since the death-rate in the table was calculated, a copy of the United States Census has been received, which gives a population of four thousand five hundred and eighty-eight inhabitants, and thus reduces the ratio from eleven and seven tenths to eight and nine tenths per one thousand. Of rural districts, Watsonville, Folsom, and surroundings, and Bridgeport Township (North San Juan), prove the healthiest. I am inclined to think, however, that the population of the second just named locality, has been put down to too high a figure by the medical gentlemen—the area of whose practice was, nevertheless, very extended.

In order to afford a correct judgment of the favorable sanitary condition of California, when compared with some of the Eastern States, as revealed by our tables for eighteen hundred and seventy-one and eighteen hundred and seventy-two, I quote from a recent report of the President of the Mutual Benefit Life Insurance Company of Newark, New Jersey:

"The great event of the year has been the increased mortality in all sections of the country—beginning, in the Winter of eighteen hundred and seventy-one and eighteen hundred and seventy-two, with typhoid pneumonia, which prevailed in many sections like an epidemic, together with acute diseases of the brain and other vital organs. The intense cold of the Winter, and peculiar character of the atmosphere, exhausted life so rapidly that the mortality steadily increased, and continued into the Spring and up to Summer, when the extreme heat did its part, and the ravages of death continued until the Fall, when, as usual, large numbers of the aged and feeble fell under the influence of the changing season, and brought us to the close of what will probably be shown to be the most fatal year of a generation. The statistics of Newark, New York, Boston, Philadelphia, and such others as have been published, confirm the foregoing opinion. An examination of the statistics that have appeared shows that, aside from the great mortality among children, the death-rate among those of insurable age has largely increased. In some places it has increased to over twenty per cent."

THE HEALTHIEST LARGE CITY IN THE WORLD.

Since the foregoing pages were written, some of the respective journals of New York and Philadelphia have been measuring lances on the subject of the comparative uncleanness, and necessarily unhealthiness of their particular cities. The contest has been a warm one, and has elicited considerable information, from which the *San Francisco Bulletin* has constructed the following interesting statements:

"Tabulated statements recently prepared by Dr. Charles P. Russell, Registrar of vital statistics in New York, for insertion in the forthcoming report of the Board of Health of that city, establish that San Francisco is not only the most healthy of all the large cities on this continent, but of the large cities throughout the world. The death-rate of eighteen hundred and seventy-two, based on the population of sixteen of the large cities of America, and the number of deaths per thousand of the population, is stated as follows:

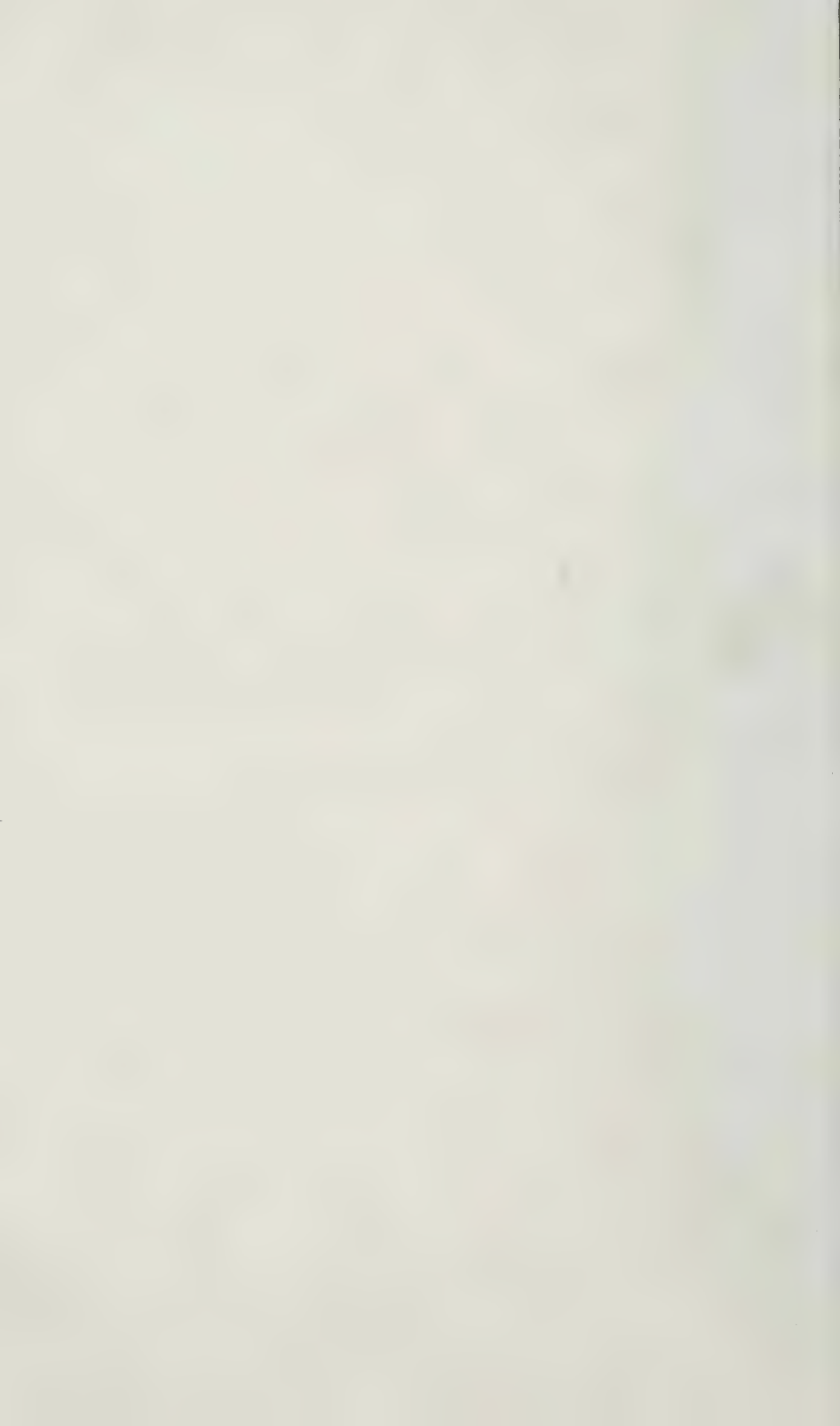
Cities.	Death rate.	Cities.	Death rate.
San Francisco	17	New Orleans.....	30
St. Louis	20	Newark	31
Cincinnati	20	Halifax.....	31
Baltimore	25	New York.....	32
Philadelphia	26	Savannah.....	36
Chicago.....	27	Montreal.....	37
Brooklyn	28	Memphis	46
Boston	30	Valparaiso (Chile)	66

"Dr. Russell has, in addition, obtained the death-rate per thousand of twenty-seven European cities, and these show as under:

Cities.	Death rate.	Cities.	Death rate.
Zurich.....	13	Genoa	31
Geneva.....	19	Stockholm	31
Basle.....	20	Nice	31
London.....	21	Havre	31
Paris	21	Rotterdam	31
Liverpool	27	Berlin	32
Leeds	27	Bologna	32
Glasgow.....	28	Naples.....	35
Manchester.....	28	Florence	35
Dublin	29	Rome	36
Leghorn	30	Prague	41
Venice.....	30	Munich	41
Milan	30	Cadiz.....	44
Vienna.....	31		

"Zurich, the highest on the list, contains scarce twenty thousand inhabitants, and therefore does not come within the category of large cities. Excepting Zurich, San Francisco makes the most favorable showing in both lists. In the dense centers of population in Asia, mor-

Arranged according to the classification recommended by the American Medical Association



tality records are not kept, but it is known that the death-rate is much higher than in either European or American cities. London and Paris, where the death-rate is alike, twenty-one per thousand admirably illustrate the connection between mortuary returns and a good system of sewerage. They are probably the best drained cities anywhere to be found. The Thames and the Seine, which formerly resembled elongated open cesspools, extending through the centre of those cities, are now comparatively clear streams, and the fish, which had abandoned them, have returned. A marked decrease in the death-rates of the two cities has been noted as the consequence. The present favorable position of San Francisco as a very healthy city, should incite efforts on the part of the municipal authorities to make it still better. There are but few cities of the world so well situate for drainage. The variation of altitude offers a good fall, and there is but a short distance for the sewage matter to be carried before it mingles with the waters of the ocean. In London, on the contrary, the sewage has to be pumped up two or three times before it is discharged into the Thames, at a distance of fifteen or sixteen miles below the city. Yet, how large a portion of San Francisco lacks efficient drainage. Let us not trust too much to our healthful Summer breezes, but with clean streets and well drained houses, let us continue to maintain our position as the healthiest city, not alone on the American continent, but in the whole world."

To present a more complete showing of all the diseases which have caused the total mortality just discussed, the following necrological tables of the metropolis and the capital of California—San Francisco being the type of the coast region, and Sacramento representing the interior-valley region—are here superadded. Although these tables do not cover the precise time embraced in the preceding—commencing as they do in January and ending in December, eighteen hundred and seventy-two, instead of commencing in July, eighteen hundred and seventy-one, and ending in June, eighteen hundred and seventy-two—still they answer all purposes as well.

In order that the remarkable similarity of two of the healthiest years may be seen at a glance, the totals of the previous year are placed in the right-hand columns.

The table for San Francisco, which has been prepared by Doctor Henry Gibbons, Jr., the present Health Officer of that city, although not exactly in accordance with the classification already alluded to, agrees so nearly in its general outlines with the one adopted by us as to render it very easy to make comparisons.

	1872.	1871.
	January.....	January.....
	February ..	February ..
	March.....	March.....
	April.....	April.....
	May.....	May.....
	June.....	June.....
	July.....	July.....
	August.....	August.....
	September.	September.
	October....	October....
	November.	November.
	December .	December .
	Total	Total
Diseases of the heart.....	16	115
Other diseases of this order.....	.....	3
<i>Order 5.—Diseases of the Respiratory Organs.</i>		
Asthma.....	.....	7
Bronchitis.....	4	23
Laryngitis.....	1	8
Congestion of the lungs.....	2	50
Inflammation of the lungs.....	5	136
Hemorrhage from the lungs.....	1	26
Other diseases of this order.....	1	31
<i>Order 6.—Diseases of the Digestive Organs.</i>		
Cholera morbus.....	.....	3
Cholera infantum.....	1	73
Diseases of the mouth and throat.....	.....	1
Diseases of the liver.....	4	57
Diseases of the stomach.....	3	44
Enteritis.....	3	44
Other diseases of the bowels.....	2	18
Peritonitis.....	2	34
Other diseases of this order.....	.....	3
<i>Order 7.—Diseases of the Urinary Organs.</i>		
Diabetes.....	1	3
Bright's disease.....	1	24
Genital diseases.....	.....	1
Other diseases of this order.....	5	18

MORTALITY STATISTICS OF SAN FRANCISCO—Continued.

	1872.	1871.
	January ...	January ...
	February...	February...
	March.....	March.....
	April.....	April.....
	May	May
	June	June
	July	July
	August	August
	September.	September.
	October	October
	November.	November.
	December..	December..
	Total.....	Total.....
	Totals.....	Totals.....
Murder and manslaughter.....	.....	.....
Order 3.— <i>Suicide</i>.....	.....	.....
DEATHS, WHICH, FROM INSUFFICIENT DIAGNOSIS, IT IS IMPOSSIBLE TO CLASSIFY.	.....	.....
Asphyxia.....	.....	.....
Dropsy and Ascites.....	.....	.....
Hemorrhage .....	.....	.....
Gangrene .....	.....	.....
Tumor .....	.....	.....
Unknown.....	.....	.....

MORTALITY STATISTICS OF SAN FRANCISCO.

TABLE II.—SEX, RACE, NATIVITY, AND LOCALITY OF DEATH OF DECEDENTS.

	1872.	Jan....	Feb....	March.	April..	May...	June...	July...	Aug....	Sept...	Oct.....	Nov....	Dec. ...	Totals..	1871.
Whole number of deaths		226	243	256	255	263	247	267	284	260	239	320	294	3,154	2,957
SEX.															
Males		163	158	175	178	177	172	174	170	158	151	197	182	2,055	1,951
Females		63	85	81	77	86	75	93	114	102	88	123	112	1,097	1,006
RACE.*															
Caucasian		194	210	215	207	226	218	240	247	236	206	286	252	2,737	2,603
Mongolian.....		28	31	40	41	31	22	25	31	23	29	27	39	367	310
African		4	2	1	7	6	7	2	6	1	4	7	3	50	44
NATIVITY.															
California.....		56	86	89	72	69	95	100	119	109	85	126	92	1,098	1,059
Other parts of the United States.....		47	36	39	51	43	39	47	31	31	39	46	49	598	442
England and Wales.....		4	7	9	8	14	5	8	15	6	5	10	10	101	111
Scotland		5	1	2	1	2	3	4	.....	4	2	2	4	32	31
Ireland.....		40	34	37	39	44	36	29	40	41	36	48	49	473	444
German States		17	19	18	15	19	18	24	17	19	17	20	20	223	231
France.....		8	8	5	13	11	11	11	12	11	7	11	10	118	86
Other European countries.....		10	12	9	8	12	10	11	13	8	9	16	10	128	115
British American Provinces.....		1	3	2	2	6	.....	3	3	2	1	3	3	29	39
South America		1	.....	2	2	3	.....	.....	1	1	1	2	1	15	9
Mexico.....		2	3	3	4	6	2	2	4	3	4	3	5	41	30
China		32	28	38	37	31	23	24	26	20	27	24	35	245	291
Other countries.....		3	2	3	2	2	4	3	2	2	3	4	3	33	44
Unknown.....		4	.....	1	1	.....	1	1	3	3	3	3	20	25

TABLE II—Continued.

LOCALITY.	1872.												1871.													
	Jan	Feb	March.	April ..	May ...	June ...	July ...	Aug....	Sept ...	Oct.....	Nov....	Dec	Totals..													
City Wards.....	165	185	201	196	176	181	187	222	199	187	231	233	2,363	2,253												
City and County Hospital.....	19	16	12	23	26	19	16	12	13	19	28	16	219	227												
U. S. Marine Hospital	1	2	1	3	1	1	2	2	1	2	1	4	21	28												
French Hospital.....	4	5	4	6	5	2	6	10	8	4	12	6	72	54												
German Hospital.....	5	5	3	1	7	8	6	7	1	2	4	3	52	29												
Italian Hospital.....	.....	4	.....	.....	.....	1	2	1	1	.....	4	.....	15	10												
St. Mary's Hospital.....	9	4	7	6	11	7	10	6	14	8	6	12	100	98												
Smallpox Hospital.....	1	.....	1	.....	1	1	9	1	3	.....	3	1	21	5												
Almshouse	7	2	3	5	10	1	1	1	1	2	7	2	42	42												
Other Charities.....	7	9	14	7	4	9	14	12	10	7	7	4	104	76												
Casualties	5	6	8	5	16	16	13	7	4	7	13	10	110	98												
Suicide.....	3	5	2	3	4	1	1	3	5	1	4	3	35	37												

*In this connection, the following remarks on "The Relations of Races and Nationality to Mortality in the United States," are deemed of sufficient interest to be inserted while this report is going through the press:

"General Francis A. Walker, Superintendent United States Census, at the recent meeting of the American Public Health Association, New York City, spoke on 'The Relations of Race and Nationality to Mortality in the United States.' He said the returns of deaths in the census failed to meet the known facts of the case by something between thirty-five and thirty-nine per cent. That percentage of the death rate is omitted. What, then, was the value of a return so defective? He expressed the belief that the returns of the census were sufficient to establish all the great relations of mortality between races and nationalities, and he accepted the result as decisive. For the purpose of discussion, he would take the returns of deaths in the census as sufficient. General Walker proceeded to illustrate the proportion of deaths among native-born and the foreign elements of the population, as represented in the death-rate of the census. He stated from statistics the number of native-born Americans, the number of colored people, the number of German, Irish, English, Welsh, and the other foreign elements, which go to make up the bulk of the population, and produced a great number of diagrams, with which he showed, as is stated in the census, the mortality among each element. These diagrams showed that among children the mortality was far greater among the native-born, for the simple reason that the proportion of foreigners under ten years of age was exceedingly small, being altogether only two hundred thousand. In proportion to their numbers, however, from the peculiarity of their circumstances and the rudeness with which they were forced into new modes of life, the mortality was greater than that of native-born children.

The whole statistics presented the fact that the mortality among the foreign element was far greater than among natives, in every description of disease. Notably in consumption, pulmonary affections generally, and Bright's disease of the kidneys, etc. He also showed, from statistical data, that while the foreign element mostly resided in the North, the colored population inhabited the Southern States, and their climatic relations to a large extent affected their constitutions and materially changed the extent of their mortality, for while the foreign population of the North were subject to certain diseases which they would be exempt from in the Southern States, he also found that negroes of the South were entirely free from certain affections to which in the North they would be predisposed.

MORTALITY STATISTICS OF SAN FRANCISCO.

TABLE III.—AGES AND DEATHS IN DIFFERENT MONTHS.

	1872.	1871.
Under one year.....	28	668
From one to two years.....	11	167
From two to five years.....	10	119
From five to ten years.....	6	85
From ten to fifteen years.....	6	94
From fifteen to twenty years.....	7	43
From twenty to thirty years.....	31	54
From thirty to forty years.....	44	374
From forty to fifty years.....	45	518
From fifty to sixty years.....	16	475
From sixty to seventy years.....	10	231
From seventy to eighty years.....	5	120
From eighty to ninety years.....	5	70
From ninety to one hundred years.....	5	17
Over one hundred years.....	.....	3
Unknown.....	2	1
Total.....	226	2,957
Still-born.....	14	241
January ...	28	691
February...	48	165
March.....	17	148
April.....	11	85
May	7	94
June	4	53
July	4	72
August....	6	54
September.	7	374
October....	31	518
November.	44	475
December..	45	231
Total.....	226	2,957

Considering the importance of mortality statistics, as tending towards the prevention of deaths, by increased knowledge of the diseases causing them, I have endeavored further to present the subject in as concise and inviting a manner as possible, by means of diagrams and maps. While the former have been graphically arranged, with much painstaking care, from the tables just discussed, the latter have been compiled from the last decennial United States Census, for the purpose of contrasting the results from those two sources of information. Through such means, it is believed, I shall best be enabled to demonstrate, at a glance, intensities, amounts, and results, with an infinite saving of time, and what is far more desirable, with numerical precision, and ocular proof.

CONSUMPTION. (*Blue Tints.*)

The deepest tint (V) in the blue map, taken from the census, shows that the greatest mortality by consumption occurs in the region including Russian River, Napa, Sonoma, and Petaluma Valleys, and that portion of the Sacramento Valley embraced in Yolo and Solano Counties—the rate of mortality being twenty per cent. The diagram (per cent of consumption to total number of deaths) shows the greatest mortality by consumption to be in Woodland. In this particular it coincides with the census map, but in special localities, within the district of tint (V) in the map, such as Napa City, Bridgeport Township, Suisun, and Fairfield, the mortality is seen to be very much lighter by the diagram.

The next deepest blue tint (IV) would seem to include the southern part of the San Francisco peninsula, the San José and San Joaquin Valleys, and Fresno, Tuolumne, and Mariposa Counties, in the foothills—the rate of mortality being fourteen to twenty per cent. As far as shown, this corresponds with the diagram.

The next tint (III) includes the peninsula of San Francisco and the Counties of Contra Costa and Alameda, or the country lying about the Bay of San Francisco; also, the coast region between Los Angeles and Santa Cruz; the rate of mortality being from nine to fourteen per cent. This gives Santa Barbara and Santa Cruz a lower rate of mortality than the diagram, which shows the mortality of these localities to be among the maxima rates, owing to special causes already mentioned. In the instance of the country about San Francisco Bay, the diagram coincides with the census map.

The next tint (II) comprises that portion of the Sacramento Valley east of the river and north of Colusa, together with that section of the Sierra Nevada region embracing Plumas, Sierra, Nevada, and Placer Counties; the rate of mortality being from five and one half to nine per cent. The diagram corresponds with this, except that Truckee, and surroundings, show a very high rate of mortality, owing to the special cause of its being a transient resort for invalids during the Summer season.

The lightest tint (I) covers the desert country east of Los Angeles and San Diego, and the region about Fort Tejon; also, the extreme northern part of the State, including the sage-brush plains or barrens of Siskiyou County and the wooded hills of Del Norte and Klamath; the rate of mortality being only two and one half per cent.

The diagram affords no comparative data for this region. The United States Census presents the naked maps, without even designating the counties, and without any comments or accompanying remarks.

It is difficult to explain the relative prevalence of consumption, as mapped out, unless by the fact that the air, on account of its coldness during Summer as well as Winter, is more completely excluded from the dwellings within the reach of the chilling oceanic winds, and where the maximum mortality is found. In this way, we would account for the greater prevalence of consumption in New England than farther south, where, as is here also shown on the map, by welcoming a free interchange of the outer with the inner air, a purer atmosphere is maintained, and, consequently, a greater exemption from lung diseases is experienced. Alpine, and other cold, tonic climates have of late been recommended as preventive of consumption, and the reasons for this afford some clue to the exemption of the northern part of the State from this disease.

By the vital statistics of the census it appears that the farther south and the farther from the seacoast the less the percentage from consumption. This indicates as the region most favorable for consumptives in the United States, that extending along the Rocky Mountains from Colorado south through New Mexico and Western Texas into Mexico. I shall allude to this subject again, when treating of the sanatory influences of some of the Summer resorts and watering places.

INTESTINAL DISEASES. (*Green tints.*)

In the census map the deepest green tint (III), representing the maximum of intestinal diseases, is made to cover the northern and north-western portion of the State, and the lower part of the Sacramento Valley; also, San Joaquin, Stanislaus, and Santa Clara Counties, and that portion of Contra Costa and Alameda Counties in the Livermore Mountains. Further south it includes Fresno, Monterey, and Santa Barbara Counties: the rate of mortality being from five and a half to nine per cent.

Our mortality table (No. 1) shows a correspondence with respect to the region of maximum mortality, although the rate is shown to be nearly double in all the points mentioned. The next deepest green tint (II), representing two and a half to five and a half per cent, embraces the San Francisco peninsula, Marin, Sonoma, and Mendocino Counties; the upper part of the Sacramento Valley, Santa Cruz, and a portion of Santa Clara and Merced Counties. In this case, also, our mortality table shows the rate of mortality to be much higher. The lightest green tint (I) includes San Luis Obispo County, and all the southeastern portion of the State. The rate of mortality is from one to two and a half per cent. The lower part of the peninsula of San Francisco, and the country around the bay, as well as the mountain region about Lake Tahoe, is represented to have a rate of less than one per cent.

This map shows that, just where the chilling Summer winds of the ocean prevail in all their intensity—driving in the blood upon the vital organs—there intestinal diseases prove most fatal. For similar reasons, the extreme northern part of the State—where the cutaneous secretions are checked and suspended by the cold, moist air of our mountain Winters—is shown to be most liable to enteric forms of disease.

MALARIAL DISEASES. (*Reddish brown tints.*)

The deepest reddish brown tint (III) in the map representing malarial diseases, shows the maximum mortality to occur in Sacramento, Amador, El Dorado, and Placer Counties; also, the northern part of the Sac-

ramento Valley and all the northeast corner of the State; the rate of mortality being from five and a half to nine per cent. In this respect, the map coincides closely with the data procured and represented in Mortality Table No. 1. In that table, it will be perceived, that the mortality in Marysville, from these diseases, is fifteen per cent; in Placerville, about the same, and in Colusa and surroundings, about twelve per cent. This, it would appear, is rather higher than the rate of mortality represented in the census map. The next degree of tint (II) includes Marin, Solano, Napa, and Yolo Counties, Nevada and Sierra Counties in the mountains, the lower part of the San Joaquin Valley, and the region about the bay, with the exception of the peninsula of San Francisco; the rate of mortality being from two and a half to five and a half per cent. In these respects, the census map coincides with the rate of mortality shown in our mortality table.

The highest tint (I) is made to include the peninsula of San Francisco, all the northwest coast country, and all the southern half of the State; the rate being one per cent. This does not coincide with our table, which shows generally a rate of about four per cent in the same localities.

The census map discloses the fact that the whole State is more or less subject to malarial diseases, in a slight degree. The broad level plains of the Sacramento and San Joaquin Valleys are specially proclivous to ague and other fevers, and it is very questionable whether the extensive systems of irrigation, now under discussion, will not add to their insalubrity. Residents of the low, rich lands in the interior of the State, where the Summers are long and hot, are liable to be much debilitated in Autumn, from the continued heat, even if they escape a positive attack of fever. The superaddition of moisture, under these conditions, must prove detrimental to the public health.

In the more elevated northwestern portion of the State, malignant or congestive fevers, generally attributed to virulent malaria, add to the sum of mortality. A physiological reason, however, may be found for the occasional development of this form of disease, in the fact that a dry, tonic climate stimulates the circulation and quickens the respiration, at the same time increasing the secretions of the skin and liver, and diminishing the amount eliminated from the kidneys. The diseases, which naturally follow, are remittent, intermittent, and other fevers, which are aggravated by malaria.

Throughout the whole State there must continue to be more or less of malaria for centuries to come, if not for all time. Much of the land, especially in the vast tule regions, is of such a nature that probably it can never be effectually drained, and could not be profitably cultivated even if drained. Nevertheless, in careful and thorough drainage lies our only hope of escape from malarial influence.

HOSPITALS, ASYLUMS, PUBLIC INSTITUTIONS, ETC.

Among other requirements of the organic law, it is directed that "the State Board of Health shall place themselves in communication with the Local Boards of Health, the hospitals, asylums, and public institutions throughout the State, and shall take cognizance of the interests of health and life among the citizens generally. They shall make sanitary investigations and inquiries respecting the causes of disease, especially of epidemics, the source of mortality, and the effects of localities, employments, conditions, and circumstances on the public health; and they

shall gather such information in respect to these matters as they may deem proper for diffusion among the people."

In the discharge of the different duties here set forth, which naturally interlock with each other, and refer to subjects of which a competent knowledge is necessary in order to advisement as to the state of the population in health and disease, and as to unwholesome conditions and their abatement, I would state that there have been published regularly every month in the *Pacific Medical and Surgical Journal*, a tabulated statement of the prevalent diseases and mortality. The data for these reports are procured not only through the instrumentality of such Local Boards of Health as are in active existence, but also by means of the coöperation of various medical gentlemen in diverse regions of the State. These statements, respecting the mortality and its causes, are always accompanied with such remarks and advice as circumstances seem to require and render necessary for protecting the health and lives of the people against epidemic visitations, in accordance with the well defined truths of hygienic science and preventive medicine. Copies of the *Journal* containing these reports are regularly sent to the leading newspapers of San Francisco and Sacramento, in order that they may have a more wide-spread publication; and during periods of impending danger, as have occurred in February, eighteen hundred and seventy-two, from smallpox, and more recently from cholera, special tracts and other circulars have been printed and distributed, for the diffusion of more correct information and advice among the community. Besides these measures, public lectures have been delivered by the members of the Board, in San Francisco and Sacramento, from time to time, on various sanitary questions, some of which will be found in the Appendix of this report.

The Legislature, at its last session, appropriated seven hundred and twenty-four thousand dollars for the public charities of the State, of which four hundred and thirty thousand dollars were for insane asylums, one hundred thousand dollars for State Reformatory or Branch State Prison, seventy-two thousand dollars for the Asylum for the Deaf, Dumb, and Blind, one hundred thousand dollars for benevolent organizations in San Francisco, and twenty-two thousand dollars for those outside of that city.

In addition to these liberal donations, the Legislature has also appropriated for the support of the orphan asylums in the State, sustained by charitable institutions, fifty dollars for each full orphan, and twenty-five dollars for each half orphan, per annum, cared for by them. The same power which has thus endowed these charities, has also made it the duty of this Board, as has already been stated, according to section second of "An Act establishing a State Board of Health," to "place themselves in communication with the hospitals, asylums, and public institutions throughout the State," and make a report thereof at each biennial session of the Legislature.

In the discharge of these duties, circulars and letters have been addressed to all the known public institutions and charities, including the various county hospitals, asking for reports and other information, the results of which will be found in the table and context which here follow. Although reports from some of the public institutions that have shared the State appropriations have failed to reach this office, still it will be seen that a sufficient number have been received to enable us to speak favorably of the benefits that have generally accrued from the largess of the State, especially in the results of hospital treatment.

TABLE

Exhibiting the number of indigent sick, with the results, in charitable institutions, and the percentage of deaths to the cases; also, the total average percentage of deaths.

NAME AND LOCATION OF EACH HOSPITAL.	No. of months reported.....	Total admitted	Discharged cured	Discharged	Died	Percentage of deaths	Remaining under treatment.	Physician.
Sacramento County Hospital, Sacramento.....	12	627	444	38	46	7.3	99	G. A. White, M. D.
Central Pacific Railroad Hospital, Sacramento	12	776	711	.....	25	3.4	30	A. B. Nixon, M. D.
Colusa County Hospital, Colusa.....	12	48	40	.....	4	8.3	4	J. M. Banks, M. D.
San Bernardino County Hospital, San Bernardino.....	12	36	.....	.....	1	2.8	.....	J. C. Peacock, M. D.
Fresno County Hospital, Millerton.....	12	22	14	.....	5	22.7	3	Lewis Leach, M. D.
Siskiyou County Hospital, Yreka.....	12	28	20	.....	3	1.7	5	D. Ream, M. D.
Los Angeles County Hospital, Los Angeles.....	12	164	133	.....	22	13.4	9	H. S. Orne, M. D.
Sierra County Hospital, Downieville.....	12	34	21	.....	5	23.5	8	George C. Chase, M. D.
Napa County Hospital, Napa City.....	12	71	44	.....	15	21.5	12	M. B. Pond, M. D.
Plumas County Hospital, Quincy.....	12	72	70	.....	2	2.7	.....	I. S. Carter, M. D.
Placer County Hospital, Auburn.....	12	78	69	.....	9	11.8	3	A. S. Dubois, M. D.
San Joaquin County Hospital, Stockton.....	12	147	100	.....	20	1.3	27	Chas. A. Ruggles, M. D.
Solano County Hospital, Suisun.....	12	67	45	.....	10	15.0	12	S. D. Campbell, M. D.
State Prison Hospital, San Quentin.....	12	131	99	.....	8	6.1	24	T. W. Randle, M. D.
Shasta County Hospital, Shasta.....	12	74	42	.....	10	1.3	22	Benjamin Shurtleff, M. D.
Humboldt County Hospital, Eureka.....	12	103	.....	.....	3	2.9	.....	E. L. Barber, M. D.
Inyo County Indigent Sick, Independence.....	12	22	6	.....	3	12.7	3	C. B. White, M. D.

Almshouse, San Francisco.....	12	103	62	1	36	34.9	4	S. R. Gerry, M. D.
San Francisco City and County Hospital.....	12	2,920	1,282	1,047	237	8.1	360	W. M. Lawlor, M. D.
Calaveras County Hospital, San Andreas.....	12	67	45	.....	9	13.2	13	E. B. Robertson, M. D.
Stanislaus County Hospital, Knight's Ferry.....	12	26	17	.....	2	7.7	7	Joshua Marks, M. D.
San Mateo County Hospital, Redwood City.....	12	37	26	.....	3	8.1	8	C. A. Kirkpatrick, M. D.
Mariposa County Hospital, Mariposa.....	12	18	9	.....	4	22.2	5	J. T. Turner, M. D.
San Diego County Hospital, San Diego.....	12	27	15	.....	4	27.6	4	T. C. Stockton, M. D.
Monterey County Hospital, Castroville.....	12	19	12	.....	4	21.0	3	E. J. Martin, M. D.
Alameda County Hospital, San Leandro.....	12	172	119	.....	13	2.3	35	C. S. Coleman, M. D.
State Insane Asylum, Stockton.....	12	1,596	270	15	188	11.7	1,123	G. A. Shurtleff, M. D.
Yuba County Hospital, Marysville.....	12	125	101	.....	12	10.5	12	C. C. Harrington, M. D.
Sacramento County Dispensary, Sacramento.....	12	612	440	.....	3	0.4	169	C. H. Fisher, M. D.
State Woman's Hospital, San Francisco.....	12	58	38	10	.....	.....	10	John Scott, M. D.
San Francisco Female Hospital.....	12	216	193	.....	3	1.4	20	C. T. Deane, M. D.
Alameda County Infirmary, Alameda.....	12	143	70	49	18	12.6	6	C. S. Coleman, M. D.

As with a similar table, published in the last report of this Board, the above compares most favorably in its results with the showing of the best ordered hospitals in the world. Taken in connection with the fact of their crowded condition, and short allowance of cubic space for air to each patient, and necessarily defective ventilation, especially in the instances of the Lunatic Asylum, the hospital wards of the San Francisco Almshouse, and of the State Prison, and most of the County Hospitals, nevertheless these results afford the most unequivocal evidence of the benefits that have accrued from their skillful medical administration. In order to afford some criterion for forming a judgment as to what has just been premised, the following classified abstract of the returns from one hundred and six English hospitals is here inserted:

Hospitals.	Number of special inmates on the 8th April, 1861....	Average number of inmates in each hospital....	Number of deaths registered in the year 1861.....	Mortality per cent on inmates.....
In 106 principal hospitals of England.....	12,709	120	7,227	56.87
24 London hospitals.....	4,214	176	3,828	90.84
12 Hospitals in large towns.....	1,870	156	1,555	83.16
25 County and unimportant Provincial Hospitals.....	2,248	90	886	39.41
30 Other hospitals.....	1,136	38	457	40.23
13 Naval and military hospitals.....	3,000	231	470	15.67
1 Royal Sea-bathing Infirmary (Margate).....	133	133	17	12.78
1 Dane Hill Metropolitan Infirmary (Margate)....	108	108	14	12.96

The first thing that strikes our attention on examining this table, is the strong contrast presented between the death-rate of the English hospitals and that of ours—verifying what has been so often advanced respecting the agglomeration of the sick under one roof, and especially in the polluted atmosphere of large cities. Compared with our hospitals, the results are simply enormous, and are well calculated to raise grave doubts as to whether or no the function of metropolitan hospitals was to kill the sick, rather than to cure them. It will be seen that the English hospitals are grouped according to locality. Now, let us compare—as the worthy to be canonized Florence Nightingale, who compiled the table, has done—three of these groups with each other. We have twenty-four London hospitals, affording a mortality of no less than 90.84 per cent—very nearly every bed yielding a death in the course of the year. Next, we have twelve hospitals in large provincial towns, yielding a death-rate of 83.16 per cent; and there are twenty-five county hospitals in country towns, the mortality in which is no more than 39.41 per cent. However, the great differences in these death-rates may be explained: It cannot be denied that the most unhealthy hospitals are those situated within the vast circuit of the metropolis; that the next lower death-rate takes place in hospitals in large manufacturing and commercial towns, and that by far the most healthy hospitals, are those of the smaller country towns.

It may now, with much justness, be asked, if these facts be so, why is it that the very converse takes place in California, as is shown

in our table. The solution of this hospital problem is readily found in the analysis of the data. In reverting to these, we find that in the County Hospitals of Fresno, Sierra, Napa, Mariposa, San Diego, and Monterey, where the death-rate was the largest (larger than that of any of our city hospitals, except the Almshouse of San Francisco), three of the five deaths, in the first named, were from fractures of the skull and cut throat; four of the five deaths in the second, were from alcoholism and traumatic hemorrhage; five of the fifteen deaths in the third, were from paralysis and cancer; two of the four deaths in the fourth, were from inanition and cancer; five of the fifteen deaths in the fifth, were from phthisis and gunshot wound; and all of the four deaths in the sixth, from phthisis and dropsy. No one who brings any ordinary powers of observation to bear on disease and death, will fail to perceive that all these deaths were absolutely unavoidable (some of them being *in articulo mortis* when admitted into these hospitals), and that to compute the curative measure for any hospital—especially a small one—by dividing such deaths by the number treated, would be altogether unfair and illogical; but deduct these deaths, as should be done, from those in the five County Hospitals just enumerated, and the position above taken holds good—as well with the California hospitals as with those of England—"that by far the most healthy hospitals, are those of the smaller country towns." The reasons are obvious. In the country hospitals the patients stand some chance of getting pure air to breathe; whereas, in large cities, what medical man does not know that in many cases of slight fever, received into hospital, the fever may pass off in less than a week, and yet the patient, from the foul state of the atmosphere around him, may not, if ever, be restored to health in less than eight weeks. These reasons, for the high death-rate in large city hospitals, apply with special force to only one of those enumerated in our table.

It will be noticed that the greatest mortality was in the hospital department of the San Francisco Almshouse, which institution was made to show, in our former report, a very low rate of mortality. This was caused by calculating the death-rate upon the basis of the total number of residents in the Almshouse, and not of those in the hospital alone, as has now been done. The patients admitted here are from other hospitals, as well as from the wards of the Almshouse—paupers—broken down in health and spirits, who have been sent here to eke out their miserable existence, without any prospect of ultimate relief or delivery from their hopeless condition. Dr. Gerry states that, even "those enumerated as discharged, for the most part, return to their wards in the house." Having already, in our former report, spoken favorably of this institution, with regard to its administration, locality, and surroundings, I can only account for the comparatively high death-rate, by the moral causes just stated, superadded to the *agglomeration of a large number of sick under one roof*.

This overcrowding of nearly all our public charities and institutions, and failure to provide a due allowance of cubic feet of air for each inmate, alone prevent our hospitals, generally, from exhibiting a lower death-rate than those of any other State or country in the world. To correct this evil, the authorities in our metropolis have taken a step in the right direction, by the passage of an ordinance punishing every person who does not allot to himself or herself five hundred cubic feet of air in the sleeping apartment. Up to this time, however, all prosecutions for the violation of this law seem to have

been directed exclusively to the Chinese. The original intention of awarding five hundred cubic feet of air to each individual in a sleeping apartment was to fix a standard for the construction of hospitals, and the size of the building, and its apartments, was made to correspond in that proportion to the number of patients admitted. No one ever dreamed that it should be applied as a hygienic rule for every-day life, or adopted as a guide for legislative action. A room ten feet high and seven feet square will give four hundred and ninety cubic feet of air, and is sufficient, under ordinary circumstances, for one person; but if that room be void of ventilation, the atmosphere will become so vitiated in the course of twenty-four hours as to be absolutely poisonous. It is not so much a question of cubic feet, but one of ventilation, which is really at issue, and it would seem from present appearances, as if it were intended that the cubic feet principle was to be applied solely to the Chinese portion of our population. As, however, our city authorities have taken the initiative, it is respectfully suggested that our Legislature would enact a State law, requiring, at least, all the State institutions to be regulated by a similar five hundred cubic feet of air statute. That such a law is imperiously required, we will point, as an example, to our State Prison. In a recent report, showing the condition of affairs at San Quentin, the Warden says: "It will be seen that in the old, or stone prison, there are seven large rooms, into each of which are crowded from thirty to forty-two convicts. It is unnecessary for me to say that this system of huddling together, in one room, over forty persons, convicted, perhaps, of as many different crimes, is entirely wrong, and reflects severely upon the law-making power of the State. Under no circumstances, in any well regulated prison, should more than two be confined in the same cell or room. It must be apparent to those even who have but little or no knowledge of the management of State prisons, that such a system must fail in attaining the objects sought by imprisonment—the reformation of the convict. We have received no report from any of the prisons in the United States presenting such a state of facts. With the present number of convicts, at least four hundred new cells are absolutely necessary to make this what a prison should be." These suggestions were made when the prison contained eight hundred and eighty prisoners. Now the number has increased to nine hundred and five, with prospects of numerous accessions within the next twelvemonth, and the seven rooms are populated as follows: Room A, thirty-three; room 1, twenty; room 2, thirty-nine; room 3, forty-one; room 4, forty-four; room 5, thirty-nine; room 6, forty-four. Room 1 is only thirteen by twenty-four feet. The cells in which four men are placed were built to contain but three. Comment is unnecessary!

In farther confirmation of our views, we would also refer to a communication from Dr. Charles Blach, City Physician to the San Francisco Board of Health, written since the passage of the five hundred cubic feet of air ordinance, in which he states he is informed that it is proposed to close the Branch Jail, and to transfer the prisoners confined there to the County Jail proper. He protests against such a change, believing it would be false economy, and inhumanity to those who are placed by law in charge of the Sheriff. There are in the two jails two hundred and eight persons, and the daily average of inmates during July was two hundred and sixty-five. The Broadway Jail contains seventy cells, four of which are unfit for use. The cells contain only about four hundred cubic feet of air each, and from two to five prisoners occupy each cell. The space is too limited for the present inmates,

and an addition of those from the Branch Jail will be likely to produce typhus and typhoid fevers. The matter will be worse in the Winter season, because then the jail is always well filled. The doctor suggests that it is cheaper to keep prisoners healthy, by means of ample space and pure air, than to place them in crowded quarters and vitiated atmosphere, thus bringing on sickness, and then medicate them to a sound condition.

While thus calling attention to the general neglect of hygienic architecture in most of the public buildings that have come within the range of our perfunctory duties, it affords me pleasure to refer, satisfactorily, to the recent structure that has been erected for the San Francisco City and County Hospital. Located in the outskirts of the city, the grounds cover nearly ten acres, and are sufficiently elevated to insure efficient drainage. The pavilion plan has been adopted. Several individual structures, most of them at considerable distance from each other, but connected by a long, covered corridor, unite to form the hospital. It is designed to have, eventually, twelve pavilions, to be built in pairs, opposite each other, on either side of the long corridor and parallel to the main buildings—the first pairs, on either side, being one hundred feet from the main buildings—the second one hundred feet from the first, and the third one hundred feet from the second. Six pavilions are considered sufficient for present purposes. With the most generous allowance of space, they will contain three hundred and eighty-four patients. The very successful results of this hospital have been already stated in our table. We have only to add, that the following recent finding of the Grand Jury, meets with our hearty concurrence:

“*The County Hospital* presented a neat and clean appearance. The buildings are admirably adapted for the purposes used, being well lighted and ventilated, but very deficient in bathing accommodations. As cleanliness of person is indispensable to a speedy restoration to health, we recommend that bath tubs be added to each ward.

“We would recommend the construction of suitable rooms for surgical operations, which are now performed in the wards occupied by patients suffering from all the various diseases, many of whom can scarcely fail of being unfavorably affected thereby.”

Besides the hospitals that have been considered, there remain to be mentioned a few institutions of a similar character, but devoted to special objects. The *State Woman's Hospital* receives only those with diseases peculiar to women. It has only restricted accommodations (eighteen beds), and it is tasked to its utmost capacity, as not a bed is ever at any time vacant. All who are able, are expected to pay; but a limited number of those unable to do so, are received gratuitously. The last State appropriation was seven thousand five hundred dollars. The institution is under the charge of Dr. John Scott, and, being well located, appears to be admirably adapted to the purposes for which it is designed. Of the fifty-eight cases already enumerated in our Hospital Table, thirty-three were Protestants and twenty-five were Catholics. The residence of thirty-seven was San Francisco, while twenty-one came from all parts of the State, viz.: Douglas City, Dry Creek, Humboldt, Mayfield, Marysville, Mokelumne Hill, Napa County, Nevada, Oakland, Stockton, and Weaverville, and one from Salt Lake City—outpatients have not been included, their attendance having been irregular and unsatisfactory.

We have to deplore the limited accommodation which this hospital affords, as it has only eighteen beds, and the cases admitted being not only grave, but of an essentially chronic nature, patients average a stay of about four months each in the house. This will explain the limited number of admissions, which would be quadrupled if we had extended accommodations. But we hope to see this matter soon remedied, as the Trustees expect to be able shortly to erect a hospital to contain about fifty beds.

The San Francisco Female Hospital, of which Dr. C. T. Deane is the Physician, received ten thousand dollars from the appropriation of the State's bounty at the last session of the Legislature. As the certificate of incorporation shows, this institution was established for the care of sick females, and to provide for the gratuitous accouchment of pregnant women. There were, therefore, one hundred and two births—boys, sixty; girls, forty-two—in the institution during the year, which are not enumerated in our table. While the most commendable neatness and order is seen in all the appointments of this hospital, the same narrow and contracted provisions for cubic space of air rule here as they do in all our public charities, except the San Francisco County Hospital; and which are chargeable to the meagerness of the funds appropriated to their support and establishment.

The San Francisco Lying-in Hospital and Foundling Asylum was incorporated for the benefit of unfortunate married, or unprotected single women, and for the care and protection of such children as may be born in said hospital, and foundlings, without distinction of race or nationality. The specialty of the institution will be seen at once. It will be appreciated that it differs from the other two charities above reported, in receiving no cases of disease whatever. It provides a room for each pregnant woman, of which it can accommodate twenty-one. It is expected that the institution will be supported by contributions, donations, and receipts from patients when able to pay. Seven thousand and two hundred dollars were appropriated to its use by the last Legislature.

Following is the report of the Medical Superintendent, Dr. B. F. Hardy, for eighteen hundred and seventy-two:

During the period named, one hundred and forty-one infants came under our care, and seventy-four mothers; numbering in all, two hundred and fifteen. Seventy-seven of the children were born in the hospital, and sixty-four infants were brought to it—eighty males and sixty-one females—parentage unknown.

Seventy of the mothers were primiparas, and gave birth to seventy-two children; all natural labors. Sixty-nine of them were unfortunate, and, but for this accident, respectable girls, representing every grade of respectable society; from the wealthiest and best educated to the poor and uneducated. Several of them have since married, with every probability of making useful women and good wives.

Many of the children born in the institution, as well as some of those left by outside parties, of both sexes, have been adopted by responsible and good persons, and appear as promising, on an average, as those born in wedlock, under parental care. The parties adopting them enter into legal written obligations to take them as their own, give them their own name, educate them as though born of their own bodies, and make

them heirs of their estates—promising, that if children afterwards should be born to them, they shall share equally and alike with them.

I, therefore, can see no good reason why these little outcasts may not become as useful to the State as those children ushered into the world more favorably and legitimately.

I trust all will perceive that the main features in our work are to serve a class of mothers that, without our aid, would seek the abortionist, in whose hands the lives of a portion of them would be sacrificed, and the remainder pass from the abortionist to the procuress' toils, to a life of infamy, each to demoralize and disease their scores, increasing the expenses of the city and State to an incalculable amount. To illustrate, I will only allude to one notorious instance that has occurred—known to all—within the last two years. Besides saving the life and character of mothers, their relatives and friends are saved from suffering and disgrace. It is possible that nine out of every ten of the one hundred and forty-one children mentioned, but for our asylum would, if they had not been killed in utero, been thrown into the bay, buried in the sandhills, or other places that might be named.

We wish it understood that we are engaged in a peculiar work that does not interfere with, neither can it be performed by, lying-in wards of any general hospital. Experience proves, that with the class of persons that come to us, if kept from exposure, we must receive them during the sixth month of pregnancy, and keep them, on an average, one month after delivery, which together will average from three to four months residence in the hospital; whereas, with all other classes of lying-in women, one month may be the average time, so that three to four times as many patients could be received and delivered within an equal number of rooms. I will here state that we have twenty-two rooms occupied by mothers, infants, and employés. These are inadequate. The rent alone of these is one hundred dollars (\$100) per month. The monthly contingent expenses for the past year have averaged—without any compensation to physician or officers—about six hundred dollars (\$600); of which three hundred dollars (\$300), or one half, we receive from the State. The number of mothers at present in the Hospital, ten; children, thirteen.

In order to meet the demands in the interest of mothers and children, we have engaged adjoining premises—until we can build for ourselves—that will enable us to double our work, and greatly improve the facilities for promoting the health and comfort of all inmates, more especially the foundlings. This will double our rent, and probably all other expenses.

It is hoped, therefore, the next Legislature will appropriate a liberal sum for a building fund, besides a sufficient sum for the contingent expenses. The city has been liberal and given us ample and suitable grounds for the wants of the institution for a quarter of a century to come. The want of funds to erect suitable buildings has become urgent. Two hundred dollars (\$200) for rent alone could be saved to the institution, had we buildings of our own.

Almost every county in the State has shared in the benefits of the institution, yet we have not been able to receive all who applied for admission, and whom we should have received, but for our limited funds and premises. We asked this of the former Legislature, but owing to the influence of jealous parties on legislative committees, were prevented from receiving the aid we asked, consequently we have been restricted

and cramped in our efforts, and confined to premises inadequate to the demands made of us.

BENJ. F. HARDY, M. D.,
Attending Physician and Surgeon.

Besides the institutions enumerated above, there are several others, both of a public and private nature, which have been established and endowed through the munificence of private citizens, as well as of cities, counties, and States, and whose names indicate their special uses. The compiler of the San Francisco Directory for eighteen hundred and seventy-three, who is best able to form a correct opinion, says that this city offers accommodation for nearly a thousand patients; that over five thousand persons availed themselves of their advantages during the year eighteen hundred and seventy-two, of which four hundred and fifty died; and that the average number of patients under treatment was nearly seven hundred.

STATE INSANE ASYLUM.

Following is a synoptical report of the Superintendent of the Insane Asylum of the State of California for the year ending October first, eighteen hundred and seventy-two.

Resident officers—G. A. Shurtleff, M. D., Medical Superintendent; I. S. Titus, M. D., Walter R. Langdon, M. D., Assistant Physicians. Directors—Edward Moore, President; Donald McLennan, O. Harvey, E. E. Thrift, Henry S. Austin; P. V. Batte, Treasurer and ex officio Secretary.

	Males.	Females.	Totals.
Number of patients October 1st, 1871.....	786	304	1,090
Number admitted during the year ending October 1st, 1872.....	359	147	506
Total.....	1,145	451	1,596
Number discharged recovered.....	176	64	240
Number discharged improved.....	16	14	30
Number discharged unimproved.....	3	.....	3
Number died.....	144	44	188
Number eloped.....	10	2	12
Discharged, died, and eloped.....	349	124	473
Number of patients remaining October 1st, 1872.....	796	327	1,123

Number of admissions, recoveries, deaths, etc., for twenty-two years.

YEARS.	Admissions	Recoveries.....	Discharged uncured...	Deaths.....	Escaped.....	Number resident close of each year.....	Whole number treated	Per cent of recoveries.	Per cent of deaths
1851	13	6	.....	1	.....	6	13	46.15	7.69
1852	124	50	.....	10	.....	62	130	40.32	7.69
1853	160	108	.....	12	.....	103	222	67.50	5.40
1854	202	150	.....	21	.....	134	305	74.00	6.89
1855	214	168	.....	18	.....	162	348	78.50	5.20
1856	210	126	.....	23	.....	172	382	60.00	6.02
1857	206	81	.....	28	.....	188	378	39.32	7.33
1858	244	112	.....	32	.....	273	432	45.90	7.41
1859	276	112	.....	49	.....	370	549	40.58	8.91
1860	248	123	.....	54	10	417	618	49.59	8.73
1861	198	154	34	33	14	416	615	77.77	5.36
1862	301	127	14	65	12	499	717	42.19	9.06
1863	252	105	17	47	12	583	751	41.67	6.26
1864	219	101	25	82	12	581	802	46.12	10.22
1865	268	93	15	82	27	632	849	34.70	9.66
1866	279	131	13	62	12	693	911	46.95	6.81
1867	313	125	14	89	9	769	1,006	40.00	8.80
1868	387	146	13	134	10	853	1,156	37.73	11.59
1869	482	225	16	159	15	920	1,335	46.68	11.91
1870	562	221	36	156	22	1,047	1,482	39.32	10.55
1871	523	245	36	176	23	1,090	1,570	46.84	11.21
1872	506	240	33	188	12	1,123	1,596	47.43	11.78
Totals	6,187	2,949	266	1,521	.....	.....	.....	.....	.....

RECEIPTS.

Balance October 1st, 1871.....	\$13,432 48
Received from Controller's warrants.....	183,270 05
Received for board and clothing	7,064 09
Received from State of Nevada for board and clothing.....	1,159 13
Received for furniture.....	300 00
Received from other sources.....	69 00

Total	\$210,704 75
Disbursements, as per vouchers on file.....	207,097 61

Balance in treasury September 30th, 1872.....	\$3,607 14
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INDEBTEDNESS.

Bills of supplies.....	\$8,267 13
Material and pay roll for improvements.....	949 22
Pay roll of employes.....	4,738 34

Total	\$13,954 69
Deduct cash on hand.....	3,607 14

Indebtedness September 30th, 1872.....	\$10,347 55
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Of all the eleemosynary institutions already noticed, so creditable to the enlightened humanity of our State, none have received so much consideration from our Legislature, or required so great an expenditure of the public treasure, as our State Lunatic Asylum.

On the first of October last, as revealed in the above table, the number of insane in California was one thousand one hundred and twenty-three. There is therefore one lunatic to every four hundred and ninety sane persons. This shows the largest ratio to population of any State in the Union, with the single exception of Vermont.

It is a startling announcement. Let us look at the matter boldly, inquire into the causes and remedies, and calculate the weight of the burden thus laid upon us, so that we may the more intelligently prepare to bear it, if not to lessen its oppressiveness. To know the extent and nature of an evil is the first step towards its abatement.

From the date of the announcement of the discovery of our marvelous gold fields, the enterprising and the adventurous of every country, race, religion, and character, have flocked hither to form the most cosmopolitan State in the world. On a people of such heterogeneous elements, exposed to all the evils incident to change of climate, habits, and modes of life, isolated, without sympathy, and deprived of all home influences, the shock attendant upon the sudden acquisition of wealth, with its unbounded hopes, its sudden reverses and short-lived triumphs, is well calculated to break some link in reason's chain, and throw into confusion even the best balanced properties of mind. And when to these reasons is superadded the speculative and gambling spirit in our community, taken in connection with the prevailing vice of intemperance, and all the evils following in its train, and unequalled in any part of the world, it is not surprising that insanity has increased at such a fearful rate. This increase has been steadily going on, as shown in the above table, for twenty-two years, with slight fluctuations, until the years eighteen hundred and sixty-two and eighteen hundred and seventy.

"Why the year eighteen hundred and sixty-two should have developed one hundred and three, and the year eighteen hundred and seventy, eighty cases in excess of their immediate predecessors, is a question involved in too much mystery to be satisfactorily answered. It leads to the suspicion that insanity, like other diseases, may become epidemic when the causes tending to its development are rife in the community. The exciting or developing causes in those years may have been increased by the excitements, fears, griefs, animosities, accidents, losses, etc., attending the inauguration and prosecution of the American conflict, in eighteen hundred and sixty-two, and that of the Franco-German war in eighteen hundred and seventy. The admissions to the asylum in eighteen hundred and seventy-one were five hundred and twenty-three, or thirty-nine less than the previous year, while eighteen hundred and seventy-two gave the asylum five hundred and six patients, being seventeen less than in eighteen hundred and seventy-one, and fifty-six less than in eighteen hundred and seventy.

"This might lead to the conclusion that the insane has reached its greatest proportion to the sane population of the State, and that we had already arrived at that period when the accumulation of old, chronic, and incurable cases had reached its highest proportional point. I sincerely hope that such may prove to be the case; for while we know that some causes, in addition to those existing in most other countries, seriously affect us, still the ratio of the insane to the population in Cali-

ifornia is less than that known to exist in France, England, Scotland Ireland, and some other countries and States. These special causes will, it is to be expected, gradually disappear; the excitements of life will diminish; it is devoutly to be hoped, too, that the use of poisonous alcoholic compounds, that the ingenious contrivances of civilization have furnished to man in such tempting forms, will also decrease with the increase in quantity and improvement in quality of our native wines, as well as under the better moral feelings of the future." (1)

THE BURDEN OF INSANITY.

If in an army of a million, to paraphrase a proposition from a high source (2), every four hundred and ninetieth soldier were insane, and not only incapable of self-guidance, but requiring the care and attention of another soldier, those four thousand men would cause a heavy drain upon the resources of that army, and prove a constant source of embarrassment in its operations. Such a drain upon the resources of the State—such an embarrassment to social progress—is the existence of insanity at present in California.

"But this comparison sets forth only a small part of the evil, because the burden is upon our hearts as well as upon our resources. It causes sorrow and mourning, which not even the hand of time can heal, as it heals sorrow for the departed; because the insane, though socially dead, will not depart out of our sight, but wander, ghosts of their former selves, and appeal to us for sympathy as well as succor."

While our statistics show that the insane have increased in our borders more rapidly than in any other country during the same period of time, and necessarily have caused a proportional outlay, it is a gratifying fact to be able to state, on the authority of our able Commissioner in Lunacy, that California is the only State in the Union, if not the only government in the world, that has never refused admission to a single person who has sought to enter her asylum. This, coupled with the remarkable fact, that while only two fifths of the population are of foreign birth, two thirds of the insane were furnished by them, affords indubitable evidence of the unbounded liberality of the policy, which has ever characterized the American people, and this, in a measure, accounts for the satisfactory results. There are but few asylums in the United States that show so large a percentage of recoveries, while the average in all is far below ours. Of the six thousand one hundred and eighty-seven committed to the asylum—as our table shows—since eighteen hundred and fifty-one—the first year of its inauguration—to October, eighteen hundred and seventy-two, it has given back to society two thousand nine hundred and forty-nine restored to health and usefulness. It has also been instrumental in taking care of two hundred and sixty-six, who, although they did not fully recover their reason, still have been returned partially relieved, to their friends and families, who have thus been spared the burden of their care for a greater or less length of time. Besides all this, it has afforded much peace and comfort to a large and troubled household during a period of twenty-two years, in taking charge of and giving Christian burial to one thousand eight hundred and fifty-one incurables.

(1) "Insanity in California," Transactions of the State Medical Society, 1873, by E. T. Wilkins, M. D., late Commissioner in Lunacy.

(2) Fifth Annual Report of the Board of State Charities of Massachusetts.

Such record proves that however much the asylum may have failed to accomplish all that was expected by the Legislature, it has certainly, through its officers, prosecuted the great Christian charity for which it was established, with a considerable degree of success. It has freely opened its doors to the reception, from families and friends, from hospitals and prisons, from the streets and by-ways, of the sick and the cast down, of the suicidal and homicidal, of the inebriate and the debauchee, when lost to all hope and self-respect, and restored back to the State nearly one half of all those, in the healthful possession of their mental and physical faculties. More than this, it has relieved many families, relatives, and friends from continual danger, dreadful anxiety, and the necessary constant watching, which would involve the loss of their time and services to the State. In the presence of such considerations, pecuniary questions become of secondary importance.

The reason why so large a percentage of recoveries occur in our asylum is because the majority of the patients are sent there at an early period after the accession of the disease—they are sent there because it is not only known that they will be received, but also that they will be kindly and skillfully treated, and that the chances of recovery are greatly in their favor. None can doubt, then, that the same amount of care, watchfulness, and skillful treatment in a better adapted and less crowded building, and in a more favorable location as to climate and other sanitary influences, would largely augment the percentage of cures, and lessen the proportion of deaths.

Influenced by these considerations, the last Legislature passed an Act, approved March twenty-seventh, eighteen hundred and seventy-two, to provide further accommodation for the insane, and, in so doing, have made a movement in the right direction towards lightening the grievous incubus which, in manifold ways of sorrow and suffering, weighs heavily on all classes of our citizens. In this Act, which is most carefully drawn up, and hedged around with every barrier to its possible abuse, the Governor was authorized to appoint three Commissioners to select a site for a new asylum. For the express purpose of securing a suitable, mild, tonic climate, in the thickest settled part of the State, so as to lessen, as much as possible, the injurious effects of long transportation, the selection of the site was confined to the western portion of the State, embracing the central coast counties, and the counties bordering on or near the Bays of San Francisco, San Pablo, and Suisun, and lying west of the Valley of the Sacramento and San Joaquin Rivers. The Commissioners being authorized, upon the above named basis, to fix more definitely the limits to the territory to be admitted and considered in selection of said site. In the discharge of these duties the Commissioners, duly appointed by the Governor, recommended a two hundred-acre tract of land in Napa County, as will be seen in the subjoined report, which was filed in the office of the Governor, on the second of August, eighteen hundred and seventy-two. The law making the final selection of the site, subject to the approval of the Governor and the Secretary of the State Board of Health, the latter functionary, in obedience thereto, and at the instance of the Governor, proceeded to visit and examine the site. On the tenth of August, eighteen hundred and seventy-two, the Secretary of the State Board of Health filed his report, herewith subjoined, in the office of the Governor, approving of the site selected by the Commissioners, and which received the final assent of the Executive. According to the law, the Governor next appointed a Board of Directors, whose duty it was to adopt plans, and

proceed at once with the erection of the necessary buildings, for the accommodation of not exceeding five hundred patients, at any one time. The Act wisely provides that the plans, specifications, etc., shall, before final adoption, be submitted by the Directors to the Governor, to Dr. Shurtleff, Resident Physician of the Stockton Asylum, and to Dr. Wilkins, late Commissioner in Lunacy for this State, with whom it is made the duty of the Directors to consult and advise. That the Directors have thus far fulfilled all these requirements, the accompanying communication goes to show; and it is a source of no small degree of satisfaction, being ourselves a party implicated in this important measure, to be able to report progress. In the name of humanity, therefore, and for reasons above assigned, it is hoped, that no delay in the speedy completion of a portion, at least, of this much needed asylum, will result from the want of necessary pecuniary appropriations.

The following documents are herewith presented, in the order of their dates, together with explanatory specification and estimates of the accompanying plans, that have been adopted. All of which, it is trusted, will prove acceptable:

The Act of March twenty-seventh, eighteen hundred and seventy-two, providing for a new Insane Asylum, defines the duties and powers of the Commissioners as follows:

"SECTION 4. Said Commissioners shall qualify by taking an official oath within ten days after their appointment; and within fifteen days after their appointment, they shall meet and organize by selecting of their number a Chairman and Secretary; they shall have power to receive by gift or to contract for the purchase of such site for the location of said asylum, subject, however, to the approval of the Governor and Secretary of the State Board of Health, to whom they shall report their action in the premises, addressed to the Governor, within four months after their appointment; they shall keep a record of their proceedings; they shall receive for their services ten dollars per day and their traveling expenses; provided the entire compensation shall not exceed the sum of three hundred dollars for each Commissioner. Their bills shall be audited by the State Board of Examiners and paid out of the General Fund. When the site by them selected, and their official acts and contracts to secure the same to the State for the use aforesaid, shall be duly approved, as herein provided, their powers, duties, and compensation shall cease."

REPORT OF THE COMMISSIONERS.

To His Excellency NEWTON BOOTH,
Governor of California:

SIR: Having been appointed by your Excellency as Commissioners to select a site for a new asylum for the insane, and having discharged the duties assigned us, we herewith respectfully submit our report:

The following article, from the *Sacramento Union* of April nineteenth, will show the organization of the Board, the general principles by which it would be guided, and the notice given to all to whom it might concern.

[The article referred to, as already published, defined the duties and powers of the Commissioners, and will be found in the Appendix.]

Governed by these general principles, and actuated by a desire to find a location possessing all or as many of the foregoing advantages as possible, and especially one of easy access to the great City of San Francisco, from which at least one half or two thirds of the patients committed to this asylum must come, it was determined, by tacit consent if not by agreement, that no place should be selected beyond the reach of easy visitations from that city in one day. Sundry places located in the Counties of Marin, Sonoma, Napa, Contra Costa, Solano, Alameda, San Mateo, Santa Clara, and Santa Cruz, were visited by the Board, and the advantages of each duly considered.

Sites presenting some of the prescribed requisites were found in all of the localities visited. In most, fair locations could have been obtained, but only two sites were found promising all the advantages named, viz: salubrity of climate, equable temperature, convenience of access, nearness to railroad communication, vicinity of some town or city, beauty of scenery, freedom from mosquitoes, facilities for drainage, and an abundant supply of pure fresh water that can be brought to the top of any building. One of these sites, a map ⁽¹⁾ of which is herewith submitted, has been unanimously selected by the Board.

It is situated one and a half mile southeast of Napa City, and contains two hundred and eight acres of land, of which about forty acres are bottom land, one hundred and sixty acres table land, and eight acres of mountain land. Most of the bottom land is well adapted to the growth of vegetables, hay, etc. The table land is said to be fine grain land, and well adapted to the production of the grape and other fruits; and as it rises at an elevation of eighty feet to the mile, it possesses a fine site for the buildings, and offers facilities for a perfect system of sewerage and drainage. A fine stone quarry of good building material is upon the eight acres mountain land, and adds materially to the value of the tract. The water supply is from a mountain brook of never failing source, on an adjoining tract belonging to Nathan Coombs, who has generously entered into bonds in the sum of twenty thousand dollars to convey to the State, for a nominal consideration, all the water privilege that may be required on the asylum grounds, for whatever purpose, now and forever, "reserving only the right to take from the water works or pipes, or either of them, any excess of water above and beside what is required for the asylum and grounds—the State, by its respective agents, alone to determine when there is any excess;" and at a distance of three fourths of a mile from the east line of the place selected, the water supply may be obtained at an elevation of two hundred feet. The tract is bounded on the west by the Napa Valley Railroad, about half a mile from the site where the buildings will probably be erected; and in full view of Napa City, and the site selected for the Odd Fellows' College, on the west side of the valley.

This land is the property of Don Cayetano Juarez (one hundred and eighty-one acres) and J. H. Thompson (twenty-seven acres), who have given bonds in the sum of twenty thousand dollars each, all of which are herewith submitted, to convey the lands to the State for the sum of sixty dollars per acre, a reasonable price; in each case the money to be paid on or before the thirtieth day of January. It is to be regretted that no meteorological tables have been kept at Napa City, as the temperature of the valley varies at different localities. The upper portion, being shut off by a range of mountains from the breezes of the bay, is

(1) The printing of this map was deemed unnecessary.

warm in Summer, while that from Napa City to the bay has no such obstructions, and is, therefore, cool and pleasant; at least such is the unanimous testimony of those who are familiar with its seasons. As an evidence of the freedom of this locality from malarial influences, we are informed by Doctor Stillwagon, who has practiced medicine there for twenty years, that he has never been called upon to treat a single case of chills. Taking all things into consideration, it is confidently believed that no asylum in existence combines more advantages of location than pertains to this, and the Board is more than gratified at finding so admirable a site for the new asylum.

The other place alluded to, is situated one mile west of Redwood City, on the estate of Horace Hawes, deceased, and known as "Mount Eagle." It possesses all the advantages that pertain to that of Napa, and has some desirable features in addition. It is more accessible to San Francisco, from which city most patients must necessarily be sent. It can be reached in half the time, and but little more than half the cost of fare to Napa. There is upon the premises a natural mound for the erection of buildings, from which a splendid view of the bay is obtained, in addition to other charming scenery, all of which are most desirable. But this place is still in litigation, and no one has power to confer a title. Its selection, therefore, was of necessity abandoned. This place was valued at two hundred and fifty dollars per acre, a little more than four times the price of that selected by the Board. The same quantity of land included at Mount Eagle, as has been agreed upon at Napa, would have cost the State forty thousand dollars more, and may well be taken into consideration.

That region of country immediately in the rear of Oakland, Brooklyn, and Alameda, is beautiful in the extreme, perhaps unequalled by any in the State, and its climate unobjectionable, but an independent water supply could not be found, in connection with other desirable, if not necessary, requisites; and in all cases, the desirable places are held at prices that, in the opinion of the Board, were too high to be paid under the circumstances. A place of similar size (two hundred and eight acres), and possessing like advantages with those at Napa or Redwood City, would, if in the vicinity of Oakland, probably be held at seventy-five or one hundred thousand dollars, which, in addition to other considerations, in our judgment, was a sufficient reason for the selection made.

There are also many beautiful places on the peninsula, between San Francisco and San José, but, with the exception already noted, none possessed the advantages of the Napa tracts.

In the Pajaro Valley two sites were found, which, though equal in themselves to any visited, were considered too far from San Francisco, and from the railroad, for the purposes of the asylum. Indeed, we may add that the climate of Santa Cruz County and city is very desirable, and the scenery surpassingly beautiful.

In conclusion, we take pleasure in acknowledging our obligations and returning our thanks to the citizens of all the places visited for innumerable acts of kindness, courtesy, and hospitality; and if we have not been able to conclude that each place was superior to all others, it is nevertheless hoped that it will be conceded that we have been actuated solely by what we conceived to be the best interest of the State and of that class of suffering humanity who are to be the beneficiaries of the asylum.

C. H. SWIFT,
E. T. WILKINS,
G. A. SHURTLEFF.

SACRAMENTO, August 2d, 1872.

REPORT OF THE SECRETARY OF STATE BOARD OF HEALTH ON THE SITE OF
A NEW INSANE ASYLUM.

OFFICE OF THE STATE BOARD OF HEALTH,
Sacramento, August 10th, 1872. }

His Excellency, NEWTON BOOTH:

DEAR SIR: I have the honor to inform you, that, in compliance with your expressed wishes, I visited, on the eighth instant, the site selected by the Commissioners for a new asylum for the insane. I passed a great part of the day in riding over and inspecting the grounds with a view to adaptability for the purpose contemplated. It affords me great satisfaction to be able not only to confirm all that has been so graphically described by the Commissioners as to topography, accessibility, and other essential requirements, but also to express my surprise and pleasure at the admirable surroundings and picturesque scenery appertaining to the locality in question. Rising gradually, as the land does, at the rate of eighty feet to the mile from the bottom land, where the Vallejo and Calistoga Railroad traverses, it affords, at about half a mile from this its western boundary, an excellent site for the erection of the buildings, embellished by a natural growth of a few oaks, and commanding a panoramic view of the circumjacent mountains and neighboring City of Napa, of exceeding beauty. This latter consideration is of no little importance, it being now the settled opinion of the most able alienists, that in order to ameliorate the condition of the insane and to effect the greatest possible number of recoveries, too much thoughtful attention cannot be given to the location of the buildings, so that every advantage may be derived from the views and adjacent scenery.

With all due deference to the economic ideas of the Commissioners, who have manifested too nice a sense of the extent of the pecuniary responsibility involved in the high trust confided to them, I must here express my regret that provision has been made for the purchase of only eight acres of the mountain land on the eastern line. In my judgment, a sufficient quantity of this portion of the tract should have been obtained to encompass the mountain brook, for which a water privilege is to be held, conformably with a bond to be entered into with Nathan Coombs, the proprietor. Pure, bright, and sparkling as this water now is, the least animal refuse or organic matter may poison it at its source, and convert it from an Hygeian fount into a Stygian stream. Apart from the importance, therefore, of securing this land, while it can be purchased at a reduced price, as I have been assured by Mr. Coombs, it must be remembered that, as has been justly laid down by the State Commissioner in Lunacy, in his exhaustive report, "at least half an acre of land for each patient to be accommodated, not only for farming and gardening purposes, but for pleasure and exercise grounds as well, should be provided." Now if the projected buildings are to be constructed for the accommodation of five hundred patients, two hundred and eight acres would not afford the requisite proportion of ground, as above specified. Without wishing to throw any impediments in the way of the immediate consummation of the project for a much needed Branch Asylum, but merely offering these remarks, Sir, as suggestive before making your final decision, I proceed to state that not only as regards topographic, but also climatic fitness and salubrity, do I find the site most judiciously selected. In the absence of any continuous series of instrumental proofs of the tempera-

ture and other meteorological phenomena of a reliable nature, I have satisfied myself, from some fragmentary observations of others, as well as of mine own, that no more equable nor more salubrious climate can be found in any other part of the State north of Santa Barbara, so far as my present knowledge extends. On the day I passed at Napa, the thermometer and course and force of the winds were carefully noted by me, and I find that the reading of the former was ten degrees less at Napa City at two P. M., in the Revere House, where I then was, than it was here at the same hour of the same day in the Central Pacific Railroad Company's office. During the late "heated term," which was felt more or less everywhere, the comparative maximum temperature of Sacramento and Napa City stands as follows:

Maximum temperature.

1872.	Sacramento.	Napa City.	Difference.
August 1st.....	96°	80°	16°
August 2d.....	98°	76°	19°
August 3d.....	99°	75°	34°
August 4th.....	94°	75°	19°
Mean	96.7°	77.2°	19.5°

It will be seen that there was a difference of nearly twenty degrees between the mean maximum temperature here and at Napa City. These observations for the latter place were registered at the Revere House, and are verified by the most respectable citizens.

From some thermometrical observations made for four consecutive months, during the Summer of eighteen hundred and fifty-six, by James M. Thompson, of Suscol, I am enabled to construct another table for the purpose of comparing the mean Summer temperature of Napa City with that of San Francisco and Sacramento.

Mean temperature.

1856.	May.	June.	July.	August.	Mean.
Sacramento.....	63°	72°	76°	76°	71.7°
Napa City.....	59°	63°	60°	63°	61.2°
San Francisco.....	58°	62°	59°	59°	59.5°

The influence of the trade winds upon the Summer temperature of these three points, is here plainly demonstrated. At San Francisco there is no obstacle presented to the force of the chilling oceanic winds, which rush directly through the Golden Gate, with increased momentum, as through a funnel; whereas, at Napa City, such is the conforma-

tion of the valley, these winds are broken in violence by the opposing mountain barriers. At Sacramento, distance still further modifies the same winds, which, having a common origin, are deflected in their course by the Contra Costa Mountains, and reach us, with much diminished force, as south-southeast winds.

Were it not for the peculiar arrangement of the mountains, Napa City would suffer as severely from the oceanic winds as Vallejo and Benicia. As it is, the climate at Napa City affords such a tempered medium between our interior heat, and the chilling winds of the coast region, as would allow the majority of all the inmates of the asylum, under proper regulations, to take out-of-door exercise, for at least a couple of hours, morning and afternoon, for all seasons, and in warm weather, when suitable shade trees, arbors, walks, and seats are provided, they may beneficially spend one half of their time in the open air.

With regard to the salubrity of the climate and location—a most important alleviative, or rather curative agency—I would remark that the testimony of all the resident physicians of Napa City, is to the effect of the absolute freedom of the surrounding country from malarial disease. Dr. M. B. Pond, who has written most explicitly on this point, states: “I have resided here six years, engaged in the practice of medicine, and must state that I have not known an epidemic, or even a marked endemic disease, to originate here during that period. There is no disease that regularly, or even frequently, returns at stated periods of the year. Typhoid fevers are scarcely known here; intermittent not at all, except when imported from abroad. Remittent fevers are more frequently met with, but they only occur as sporadic cases, and not at regularly recurring seasons. * * * During the Summer the thermometer ranges from sixty degrees to seventy-two degrees, with only occasional exceptions, and those lasting only two or three days at a time.”

Dr. Stillwagon, who has practiced medicine in Napa City for the last twenty years, not only corroborates all that has just been quoted, but affirms that after a careful examination, in his legislative capacity, with Dr. Shurtleff, of the records of the asylum at Stockton, fewer cases of insanity were found sent from Napa City, in proportion to the population, than from any other point in the State. It would seem, therefore, from *a priori* reasoning, that the best place for treating the disease is where the causes exist in the least intensity.

The whole subject, you will perceive, Sir, involves questions of the deepest interest and of the most intricate nature, and should be thoroughly grappled with both by the State and its medical men, if we wish to keep down the number of the insane as small as possible by healing all that can be healed in the curable stage of their disorder.

Regretting that the very limited time of only four days allowed me, after the filing of the report of the Commissioners, according to the terms of the Act, necessitates so hurried a summary of the facts which I have been able to possess myself of, bearing on this momentous State charity, and the consequently hasty conclusions I have deduced therefrom, I remain, very respectfully, your obedient servant,

THOMAS M. LOGAN,
Secretary State Board of Health.

REPORT OF THE BOARD OF DIRECTORS OF THE NAPA STATE INSANE ASYLUM.

To the State Board of Health:

GENTLEMEN: Through the politeness of your Secretary, Dr. Logan, the undersigned have been invited to accompany the adopted design of the new State Insane Asylum with such a report upon the subject of their appointment as may be of service to the Governor and legislators during the next session of the legislative bodies.

On the thirteenth of September, eighteen hundred and seventy-two, Messrs. J. H. Jewett, of Marysville, and James H. Goodman, Chancellor Hartson, and R. H. Stirling, of Napa City, met at the rooms of the "Napa State Asylum for the Insane," in Napa City, and organized as the regular qualified Board of Directors of said asylum. Dr. J. F. Morse was elected as President, James H. Goodman as Vice President, and W. C. Watson as Treasurer and ex officio Secretary. On the nineteenth of October ensuing, Dr. Morse presented his credentials and joined the others in their duties to the State.

At this meeting it was determined to advertise for plans and specifications for an asylum building, and to offer, as a premium to competing architects, one thousand five hundred dollars for the best design, one thousand dollars for the next best, and five hundred dollars for the third in comparative merit. It was also resolved to limit the maximum expenditure of said asylum building to six hundred thousand dollars, and to require accommodation for five hundred patients, which should be as complete as present experience in asylum architecture could make it.

On the sixteenth of January, eighteen hundred and seventy-three, elaborate plans were submitted by the following architects, to wit: J. W. Bones, Bugbee & Son, A. F. Eisen, Wright & Sanders, J. Gosling, Coulette & Johnson, and John J. Newsom. It was ordered that Governor Booth, and Drs. Wilkins, of Marysville, and Shurtleff, of Stockton, should be invited to meet the Board on the twenty-third of January, one week hence, and assist in the selection of plan. At this date these gentlemen met the full Board at Napa City and carefully inspected the plans submitted. A conditional preference was expressed for the design of Wright & Sanders, and an adjournment taken for final meeting at the call of the President.

Pursuant to notice, the Board met at San Francisco on the eleventh day of February ensuing, when the premiums were distributed as follows, to wit: Premium first to Wright & Sanders, premium second to Bugbee & Son, and premium third to A. F. Eisen. The plan of Wright & Sanders was then officially adopted and those gentlemen selected as architects, in accordance with the requirements of the law.

Advertisements soon followed for lime, cement, and bricks, which resulted in the acceptance of the bids of the Pacific Cement Company for cement, of Cox & Colby for plain and pressed bricks, and H. K. Knapp for lime.

After duly advertising for estimates on the foundation, the contract was made with J. Cochran, proper bonds secured, and the work immediately commenced.

The Directors report that, while determined to carry out and be governed by the direction and meaning of the statute under which they are appointed, yet, in the contract for building the foundation, the demonstrable difference in expenditure of time, money, and convenience was

so much in favor of a contract for the whole foundation, that they determined to allow this much of the work to be done at once. This they did not do, however, until consultation with many architects and builders as to the question of economy to the State.

An excellent foundation will soon be completed, prior to which we shall advertise for estimates upon the whole superstructure, but in such a manner as to enable us to comply with the law in respect to finishing a portion of the building for the earliest possible occupation.

We regret that the provisions thus far made by the State for the construction of this asylum are so limited as to make it impossible to utilize many accessible sources of economy, and quite impossible to meet promptly the increasing demand for its early completion.

From the able report of Dr. E. T. Wilkins, Commissioner in Lunacy for the State of California, every legislator can learn how important it is that this whole building should be finished and occupied. At the present time the number of patients in excess of accommodation at Stockton is far beyond those recognized requirements which universal experience has enacted. Indeed, the present surplus would be sufficient to nearly, if not entirely, fill the institution now in process of erection at Napa, were the same ready for subjects. In order to make this apparent at a glance, let us call attention to the following brief quotation of this Commissioner's report of eighteen hundred and seventy-two :

"But there is another question that must not be overlooked in our solicitude for the establishment of a new asylum, and which is a matter of equal concern. It is the present crowded condition of the asylum at Stockton. With accommodations for not more than six or seven hundred patients, there are packed in its wards about eleven hundred, or four hundred more than it can properly accommodate. Dr. Shurtleff tells us in his report, 'That besides two patients in the rooms intended for but one, in eight out of the eleven wards, two hundred and twenty-seven patients are sleeping on beds nightly prepared for them in the halls.' Two of these wards, the second and tenth, intended for thirty patients each, now have about eighty each. These wards are poorly ventilated, low and uncomfortable in the extreme, and should be erased from the face of the earth and the memory of man. They never were fit receptacles for any human being, and have been tolerated altogether too long.

"To the crowded condition of these wards, and the hospital generally, must be attributed the increased mortality of the last four years. And should it be our misfortune, which God forbid, to be visited with cholera, or other epidemic, there is no place to which the patients could possibly be removed, and they would consequently be swept away like sheep with the rot. Let any member of the Legislature visit these wards at bedtime, and if he does not conclude that it is a sin and a shame not to do something for their immediate relief, we will be willing to acknowledge that we ourself have lost our reason and our head, and a fit subject for the very wards we have described, or that he himself is in such a condition, for no two sane men could ever agree to the policy of doing nothing after having visited them."

We have made this brief quotation in order to demonstrate that urgent demand for more asylum accommodations which induced the last Legislature to order the erection of a new asylum at Napa, and at

the same time to call the attention of the authorities to the insufficiency of the provision thus far made for this new asylum building. The law provides for raising one hundred and seventy-five thousand dollars annually, for two years. Of this, two fifths are to go to the Stockton institution until the latter place has received one hundred and thirteen thousand dollars. This reduces the total provision for the Napa asylum to two hundred and thirty-seven thousand dollars, and this sum, depending as it does upon the annual tax collections, is so uncertain in its accessibility that much, both of expedition and economy, must be sacrificed in its outlay.

The same policy which the individual adopts in the erection of a large building, is the best policy for community or State. Only where the provision is complete and accessible can economy in time, material, and competition, be utilized. As a matter of interest, of policy alone, this is a rule universal and almost unfailing throughout human experience. But here it cannot be claimed that policy is the chief consideration. It is none the less binding, none the less supported by the laws of common sense, but in the erection of this new asylum we are urged by an appeal of humanity which civilization makes paramount, and which duty enjoins as the highest privilege of the individual, and the greatest ornament of State. To take good care of those who are disfranchised of reason, to do all that can be done to restore consciousness, and judgment and responsibility to those who have lost them, is an office so high and so reasonable that, in the United States at least, the response is generally prompt and munificent. Thus, in the State of New York, are—

Name.	Cost.
The New York State Lunatic Asylum at Utica, at a cost of.....	\$661,065 58
The Willard Asylum for the Insane at Ovid.....	728,727 11
The Hudson River State Hospital for the Insane at Poughkeepsie.....	1,200,000 00
The Buffalo State Asylum for the Insane at Buffalo.....	800,000 00
The New York State Homœopathic Asylum for the Insane at Middleton.....	360,000 00
Total	\$3,749,792 69

In no State of the Union is the necessity for increased asylum accommodations so urgent as in California. And as nothing can relieve this necessity but the most expeditious construction of a building, and, as the humanity of the State has already commenced such a work through the undersigned Board of Directors, we would violate our duty if we did not beg the existing and incoming authorities to so modify their system of providing means for the Napa State Asylum, as will secure its most expeditious and economical construction.

JOHN. F. MORSE,
J. H. JEWETT,
JAMES H. GOODMAN,
CHANCELLOR HARTSON,
R. H. STIRLING,

Board of Directors of Napa State Asylum for the Insane.

SAN FRANCISCO, August 20th, 1873.

REPORT OF THE ARCHITECTS OF THE NAPA STATE INSANE ASYLUM.

To the Honorable Commissioners for the erection of the Branch Insane Asylum, at Napa:

GENTLEMEN: In compliance with your advertisement for plans and specifications for the erection of the Branch Insane Asylum, we beg to submit the accompanying designs for your favorable consideration, comprised in the following drawings, viz:

First—Ground or first floor plan.⁽¹⁾

Second—Second floor plan.

Third—Third floor plan.

Fourth—Fourth floor plan.

Fifth—Perspective view from the southwest.

Sixth—Isometrical view from the southwest.

In preparing our designs we have endeavored to keep in view the following essential requisites, named in the order of their importance. These are:

First—Appropriate and pleasing design.

Second—Solidity and security of construction.

Third—Economy of expenditures, and facility for supervision and management.

Fourth—The principles laid down for the construction of hospitals, unanimously adopted at the Convention of Medical Superintendents of American Institutions for the Insane, in eighteen hundred and seventy-one, have been fully carried out in the plans which we have submitted.

Style of architecture.

The new asylum is intended to face the west, and consists of a center building with wings extending on each side, and are exactly alike—the divisions for the sexes being equal; twelve wards on each side, exclusive of the infirmaries, and one ward on the fourth floor of the center building, and has accommodations for five hundred patients. The style of architecture is domestic gothic, being the least expensive, and best adapted to the site; and with its several projections and towers, and the hills and trees in the background, will give a very attractive and pleasing effect to the whole.

Number of patients and wards on each floor.

	Males.	Females.	Total.
First floor, four wards	74	74	
Second floor, four wards	74	74	
Third floor, three wards	60	60	
Fourth floor, one ward	20	20	
Fourth floor, center building, one ward	44	.....
	272	228	500

(1) The second, third, and fourth floor plans, were not deemed of sufficient importance in this connection, to be engraved.—[Secretary of State Board of Health.

Construction.

The outside walls of the basement story are to be built of stone from the quarries adjoining the asylum property. The walls above can be built of rubble, stone, or brick, and if the latter is used, the walls will be sixteen inches thick, laid hollow, with an air space of four inches; the interior walls on the corridors will be sixteen inches, to leave room for the ventilating and heating flues; the division walls between the single rooms will be nine inches thick. The roof to be framed in wood and prepared for slate or medallion metal. The plastering will be done directly upon the brick walls, and the floors will be deafened with spent ashes and mortar, which renders the building as nearly fire-proof as possible, without going to the expense of iron joists and brick arches. The circular towers at the intersection of the wards, are to be built upon a system of fire-proof construction, with stone staircases and well-holes built up solid. The floor to be on the Dennett arch principle, and paved with artificial stone. The doorways connecting with the wards on the different stories, are all to have stone sills with iron doors, in addition to the ordinary wooden ones. The upper stories of the towers are intended for the water tanks.

Basement.

This story, which will be about five feet above the ground, contains the hot water boilers for supplying the wards, the tramway, which extends through the basement of every ward—and also to the basement of the laundry—dumb-waiters from the kitchen and laundry, with the other dumb-waiters for supplying the dining rooms on the different floors, the clothes and dust shafts, also the hot air chambers for heating the building, and a number of storerooms under the kitchen wing. This story is well lighted and ventilated by means of windows above the ground floor level.

First floor.

The main center building is divided by the center hall into two equal parts; that to the left contains the Apothecary's shop, Superintendent and Secretary's offices, with private staircase communicating with the Superintendent's apartments above, and in the rear the steward's office and men's reception room, while that to the right contains the public parlor, library, and officers' dining room, and immediately behind these the matron's room and ladies' reception room.

Second floor.

This floor is reached by the main center staircase, and is appropriated exclusively to the use of the Medical Superintendent's family; it contains a parlor, sitting room, library, dining room, and three bedrooms, water closet, bath room, dumb-waiter, and three clothes closets, and in the rear four large spare rooms, and also a private entrance and staircase from the ground floor.

Third floor.

This floor is reached by the main staircase from the second floor; the front contains the chambers for the use of the assistant physicians,

matron, and steward, two bath rooms, lavatory, two water closets, and three clothes closets; and in the rear, two large spare rooms, bath room, lavatory, and water closet.

Fourth floor.

This floor is reached by the main staircase from the third floor; and is arranged with associated dormitories for the accommodation of forty-four patients, with dining room, dumb waiter, pantry, lavatory, water closet, bath room, and clothes room.

Rear Building—First floor.

Immediately behind the center building, on the south side, are the lavatories and water closets for the females; and on the north side, the same for the males; and still further in the rear, are the trunk room, clothes room, servants' dining room, kitchen, storeroom, pantry, tin room, steward's office, and general store, with staircase to the basement.

Second floor.

This floor is reached by the staircase in the rear corridor, and is divided off into chambers for the servants connected with the kitchen department, with lavatory, bath room, and water closet. The chapel is on this floor, directly over the trunk and clothes room, and is reached by the main staircase from the central hall, with two doorways, one on the south side for the females, and one on the north side for the males, with lavatories and water closets for each sex. The gallery is across the west end, and has two entrance doors from landing of main staircase, same as on the main floor.

Arrangement of wards.

Each ward has connected with it a day room, a corridor, single lodging rooms for patients, an associated dormitory communicating with a chamber for two attendants, a clothes room, a bath room, a water closet, a lavatory, soiled clothes shaft, closet for brushes and buckets, a drying closet, a dust flue, and two fire-proof staircases to each, so that the patients will be able to reach the inclosed yards in the rear, or the pleasure grounds in front, without communicating with the other wards. Every room in the building has a flue communicating with the fresh air, duct for warm or cold air, with ventilating flues terminating in the various ventilators in the roof of the building. The water closet, lavatory, and bath room, open from a small passage, and not from the main corridor, and the bath room and lavatory have a communicating door, in order that the latter may serve on bathing days as dressing room to the former.

The wards for excited patients are to have on one side of the corridor a conservatory for flowering plants, birds, etc., and a water fountain in the center of each.

Laundry, bakery, and engine house, are placed in a detached structure, one hundred feet to the rear of the hospital buildings, and contains on the first floor the engine room, workshop, bakery, bread room, storeroom, foul linen room, mending room, laundry, with staircase to the drying and ironing room on the second floor.

The second story of this building is reached by the staircase in the center hall, and is divided into chambers for the use of the servants connected with this department, with bath room, water closet, and lavatory, and in the rear are the sheds for coal and wood; large court and drying ground for the laundry on the female side, and carpenter's shop and lumber yard on the male side, and to the east, the dead house for male and female, with post-mortem room in center, supplied with hot and cold water.

Infirmaries.

In detached buildings, in the rear of the last wings, but connected by means of covered corridors, infirmaries are provided for each sex, fitted up with every convenience, having—besides the corridor, with large bay windows at each end, and chambers for the patients and attendants—a parlor, a dining room, a kitchen, a dumb waiter, a closet, a bath room, a lavatory, a water closet, a drying closet, a clothes room, a dust flue, and a water closet off the garden.

It must not be overlooked, that neither in the main building nor the infirmary is there a single dark room or borrowed light, but every room, water closet, and lavatory, has a window in each, communicating directly with the external atmosphere.

Lighting.

It is proposed to light the building with gas, on account of its convenience, cleanliness, safety, and economy, and to be manufactured from gasoline, without the use of fire—the works to be placed in a brick building adjoining the dead house.

Water supply.

It is proposed to have water tanks placed on the upper stories of the towers, capable of holding at least twenty thousand gallons of water, and to be so arranged that one or all may be used at pleasure. The tank for supplying the steam boilers are placed in the main central tower, and is elevated sufficiently to supply the boilers when carrying a pressure of forty-two pounds to the square inch. The boilers are also to be supplied with hot water from the condensed steam used in heating, which returns to a cistern, and forced into them by a small steam pump. An additional supply is also brought direct from the main.

The center building is to be supplied with hot water from the kitchen boiler, heated from a water-back behind the range. The boilers for supplying the wards with hot water are placed in the basement directly under the baths in each ward, and are heated from steam coils coming from the Summer pipe.

Hydrants are to be placed on the landings of each staircase throughout the building, and supplied direct from the main, with hose constantly attached, to be used in case of fire.

Heating and ventilation.

The boilers for heating the building are placed in the detached building in the rear of the hospital, and are also used for driving the ma-

chinery, cooking, washing, and heating the hot water boilers in basement for supplying the baths in the different wards.

It is also proposed to have in the basement story hot air chambers, built in brick, to receive the steam chests, which are supplied with steam from the boilers, with direct flues leading from them to the wards above. And the whole are so arranged, that one or all of these appliances may be used at pleasure.

To secure thorough ventilation, it is proposed to place above the collar ties a horizontal galvanized iron tube, to receive the vitiated air through separate vertical flues from the different wards below, terminating in the towers and ventilation turrets.

Downward currents of air for the ventilation of the water closets, urinals, bath-tubs, and sinks, will be secured through an arrangement of pipes terminating in the fire boxes of the boilers.

Provisions against fire.

The towers at the intersection of the outer and inner angles of the building are to be of fire-proof construction—stone being used for stairs and landings, and the floors of the Dennett arch, paved with artificial stone, and are built one story higher than the connecting wings, for the purpose of disconnecting the roofs, thereby preventing the spread of fire, should such a catastrophe ever occur. The division walls between the center building and the wings are built three feet above the roof, to serve the purpose of fire walls, and the door openings on every floor are to have stone sills, and iron doors in addition to the ordinary wooden ones.

Hydrants are to be placed both outside, in the grounds, and inside, on the landings of each staircase, with fire hose constantly attached, and supplied directly from the main, also from the water tanks in the towers; a sufficient quantity of hose is to be kept in the engine-room that will reach to any part of the front building, to be attached when required to the steam pump. This supply of hydrants, with an organized fire company of servants and attendants, and an unlimited supply of water, renders the building quite exempt from danger of destruction by fire.

Yards.

In the rear of the building there are three private yards on each side connected directly with the adjacent wards, for the use of the patients, with large airing sheds, and water fountain in the center of each.

Estimate.

The architects furnishing competitive designs for the Branch Insane Asylum to be erected at Napa, though not restricted or fettered in the adoption of style, outlines of plan, or location of buildings on the ground, are required to furnish accommodations for five hundred patients, and that the plans, etc., must be such as will afford a complete building for the sum of six hundred thousand dollars. This difficult problem we have sought to solve, and the edifice we have designed can be erected for that sum.

All of which is respectfully submitted by your humble servants,

WRIGHT & SANDERS.

As germane to the subjects discussed above, the following reports, which were read and approved by the State Board of Health—the first, on the seventeenth of January, eighteen hundred and seventy-three, and the second, on the eleventh of July, eighteen hundred and seventy-three, are here inserted.

The paper on “Insanity and its Relations with Jurisprudence,” was drawn forth from the author, at the solicitation of your Secretary, on the occasion of the important legal questions involved in the trial of Mrs. Fair, in San Francisco.

REPORT ON INSANITY AND ITS RELATIONS WITH JURISPRUDENCE, BY DR. E. A. KUNKLER, OF PLACERVILLE.

As medicine is not, like mathematics, built on self-evident truth, but a science founded on experience, and on the observation of processes, sometimes of the most intricate character, it is to be expected that physicians, whose education has not been uniform, and whose mental powers and personal experiences are not the same, will often disagree. Hence, the question has been propounded: when doctors disagree as experts in a trial, involving the question of insanity, who shall determine the truth? Of course, the Judge, jurymen, and lawyers, however, being destitute of the knowledge of the nature, the causes, and the workings of the mental affections will, if not enlightened by medical men, in cases in which life and death are at stake, commit grievous mistakes.

On ideas founded upon scientific fact, sanctioned by observation and experience, or on the logical consequences of such facts, there can be no difference of opinion among physicians. But many doctors seek, in mental affections, their inspirations in books written many years ago; or in works still interlarded with the ideal creations of former times, not up to the standard of the present scientific knowledge. This fact is well illustrated by the discussion on moral insanity, in the Medico-Psychological Society, in Paris (American Journal of Medical Sciences, January, eighteen hundred and sixty-nine), and also in the medical testimony given in Mrs. Fair's case. It will, therefore, not be amiss to publish a short general sketch of the main known scientific facts bearing on insanity and its relations with jurisprudence, in terms easily to be understood by everybody, in order to diffuse a more correct knowledge on this important subject.

It has been ascertained, by microscopical investigation, that the white matter of the brain is composed of millions of nerve-fibres; the gray matter of an immense number of nerve-cells, or minute bags, of different forms and sizes, containing a fat-like granular matter; and that most cells are connected with one or with more nerve-fibres. It has also been observed that the nerve-fibres are minute tubes, containing a semi-fluid substance, surrounded by fatty matter; and from this construction, it is held by physiologists, that the office of the nerve-fibres is to carry, by vibration, the shock of different impressions to different cells.

By observation, it has likewise been ascertained that the brain, especially the gray matter, is supplied with blood-vessels, subserving for its nutrition and functional action.

Groups, or agglomerations of nerve-cells, have been called ganglia; and, by experiment, it has been found that the ganglia are the receptacles in which internal and external impressions are received and stored up. Therefore, the ganglia at the base of the brain, connected

with the nerves of the organs of the senses, have been denominated the optic, olfactive, auditory, and gustatory ganglia; and are considered to be the organs in which all the external impressions, transmitted by the organs of sense, are received and preserved, like photographic images.

Recent investigations have established that the convolutions of the external or cortical part of the brain, contain very minute, fan-like mechanisms, composed of nerve-fibres and nerve cells; and inasmuch as the convolutions are isolated from the ganglia of the organs of sense,—receiving only the fibres which radiate from the central ganglia, called the thalami, to the periphery of the brain; whilst other fibres converge from the convolutions to a mass of cells denominated the striated bodies, where fibres are in relation with the roots of the nerves ruling over the organs of motion: it has been concluded, from this peculiar arrangement, by scientists, that intellection is performed in the convolutions, where the impressions stored up in the ganglia are elaborated, and that the intellectual result is carried, by the powers of the will, through the fibres of the striated bodies, to the organs of motion. Pathological observations and post-mortem examinations have established that the acuteness of sensation, and the activity and irritability of the nerves, depend on the quantity of oxygen, carried by the arterial blood to the nerves, or the nerve-centers therewith connected; and that any sufficient excess, or deficiency of arterial blood, received by the brain or nerve-centres, by any cause, will derange the nutrition and the functional action of the brain matter, and bring forth, either an irregular action of the organs of motion, or abnormal mental manifestations; the phenomena changing, according to the degree of the perverted nutrition, and to the particular parts of the brain involved in the morbid process.

Microscopic inquiry has also demonstrated that any stimulus, irritation, or shock—physical or moral—directed upon a nerve, will contract the muscular fibers of the coats of the blood vessels supplied by that nerve, in such a manner as to diminish its calibre, producing an accumulation of arterial blood, or what is called inflammation, in the neighboring tissues, of a more or less great importance, according to the degree, and the continuance of the irritation. If such inflammations are the result of a mental or emotional shock, which is fugitive—lasting only a short time—they will soon scatter, and the effect is only temporary. But, if this inflammation is the effect of physical cause, more or less permanent, it will continue until its cause has been removed, either naturally or artificially, and lead to different structural changes.

Microscopical experiments have likewise shown that both narcotics and tonics act by stimulating the nerve-centers. Sleeplessness, often connected with cerebral affections, is in most cases the effect of the sympathetic irritation of the brain, by irritating substances present either in the liver or in the gastro-intestinal canal; experience having demonstrated that as soon as the emission of the bile is increased, and the bowels are freely moved, the sleep speedily returns.

More or less loss of consciousness, also met with in some mental affections, is sometimes the result of pressure on the brain; at other times, of venous blood circulating in the arteries.

It was formerly believed, and is still asserted in some works on insanity, that the chief causes of mental alienation were powerful mental or moral influences. But more careful investigations have established that moral influences alone will either arouse passion, such as anger,

grief, despair, or a temporary agitation of the mind, and that a very severe mental shock, such as by very sudden good or bad news, may even cause instant death by apoplexy, or otherwise; but that such mental shocks alone are incapable of producing a disease of the mind. Hence it is now generally admitted that there can be no insanity without the existence of some organic disorders, although such disorders are sometimes obscure.

The main physical causes of insanity are:

First—Plethora, or excess of red blood-corpuscles in the circulation, by which all the organs become gorged with blood, disturbing their functional action.

Second—Anemia, or paucity of blood, impairing the general nutrition.

Third—Affections or disorders of the stomach, bowels, liver, urinary passages, or worms, will react, by sympathetic action, upon the brain.

Fourth—Diseases of the heart, some of which will cause an excess, others a deficiency of blood to be carried to the brain.

Fifth—Injuries to the head, tubercles, diseased bones of the skull, and blood containing heterogeneous substances, will irritate, directly, the brain.

Sixth—Diseases of the lungs and its passages might excite cerebral irritation, by preventing the purification of the blood.

Seventh—Diseases or disorders of the organs of generation of women, and the different displacements of the uterus, will react sympathetically on the nerve-centers.

The congenital imperfect construction of some organs essential to life, transmitted from parents to children, when both parents possess the same imperfections, such as a large head on a short neck, admitting too easily an excess of blood into the brain, or a heart, lungs, liver, or kidneys of a capacity not in proportion with the size of the body, are the most prolific causes of hereditary insanity; apt to generate in the offspring the same diseases of the parents, if exposed to the same unfavorable influences. Syphilis being contracted by a specific animal poison, is evidently transmitted to children through the contamination or the poisoning of the blood. In insanity, however, there is no such taint, and it is therefore manifest that it becomes hereditary only in the manner related.

Self-abuse and drunkenness being only temporary effects of cerebral irritation, cannot by themselves set up mental affections, though they may excite temporary attacks of insanity, when there is already nervous irritability, by some other permanent organic disorder.

Besides these more or less evident causes of mental alienation, obscure cases are met with, connected, for example, with internal tumors, tubercles, morbid growths, or diseased bones, the existence of which cannot be ascertained during life; acting in combination with a disordered state of the portal circulation sometimes equally obscure. Experience, in effect, has demonstrated that the disorders of the portal circulation, are not always clearly apparent, and that, sometimes, they manifest themselves by the most uncertain and perplexing symptoms; and inasmuch as in most mental affections, the portal circulation is disordered, the existence of such disorders should be assumed, no matter whether apparent or not.

Indeed, whenever any person takes cold; is exposed to impure air in closed rooms, or otherwise; to inhale dampness or fogs; to great heat; insufficient bodily exercise; or suffers from any disorder of his respiratory organs, by which a perfect aeration of the blood is prevented by

the lungs, the disintegrated substances, or the waste of his body, will accumulate in his sanguineous circulation. Then, being too long retained in the system, these substances will generate, by degrees, irritating products; which, by passing into the portal circulation (composed of the blood of all the veins of the stomach, bowels, spleen, and perinæum), and through the most delicate interlobular ramifications of the portal vein, branching off in the substance of the liver, will irritate and contract these microscopical structures, more or less, according to the quantity of the irritating substances, and to their irritating qualities. Thereby, the portal blood is prevented from passing freely into the hepatic veinlets, to be carried towards the heart; producing stagnation of the portal circulation; more or less congestion of the liver, stomach, bowels, spleen, perinæum, and of the gastric and intestinal glands; apt to pervert their secretions, and impair digestion, and also to constipate the bowels. In aggravated cases of this kind, the disease can be easily ascertained; in mild cases, however, by preventing the secretions and excretions, and setting up a great variety of direct and sympathetic irritation, of an obscure character, it will sometimes puzzle the most acute physicians.

Physical affections, in some cases, where no nerve-fibre connected with the cerebral matter is irritated, have little or no influence upon the brain. In other cases, when nerve-fibres in connection with the brain are irritated, one single physical disorder will excite an abnormal or excessive nervous irritability, characterized by great excitability, irascibility, and bad humor. Such a state is not insanity; which springs up only, when the nervous disturbance is aggravated by other co-acting physical or moral influences. So, when a person suffers from ozena, or diseased nasal bones, in the vicinity of the base of the brain, apt to irritate, by contact, the cerebral matter, it will often engender some nervousness, with no other bad effect. If this person becomes at the same time dyspeptic, this state may only increase the nervous irritability. But, when the indigestion is permitted to progress unabated; or the nervous affection is aggravated by the use of alcoholic stimulants, by narcotics, by grief, or by other emotional influences, an attack of insanity is pretty sure to follow; yet easily curable, provided the different existing physical disorders can be overcome. Should, however, the ozena prove rebellious, as it often does in old cases, the mental affections will be only temporarily relieved by the cure of the other disorders, and will return unless great care be taken in avoiding a relapse of the aggravating influences. But in all these cases, in which it is possible to master permanently, all the physical disorders, the nervous affection will also permanently disappear, in spite of the moral influences, if the brain-matter has not already been altered, or destroyed, by the effects of the combined diseases; when, of course, no human ingenuity can reëstablish the brain to its natural condition.

The word mania means madness, or insanity, especially applied when there is erroneous judgment. Acute inflammation of the brain, with high fever, is called phrenitis, or phrensy, attended by delirium, either furious or muttering; and when the membranes around the brain are involved, the nervous disturbance is more severe. Where acute inflammation of the brain is consequent upon a previous deranged state of the mind, or attended by little or no fever, it is called acute mania. Chronic mania is the same malady, only of a milder character; and monomania is the name applied to that form of mental aberration, in which the patient is rational on everything, except one point; as, for example, that he believes himself to be God, a prophet, an Emperor, or that twice two are

three, not four; ideas, which no reasoning is capable of altering. Puerperal mania is the insanity which supervenes in the child-bed state; and kleptomania the insanity with an irresistible propensity to steal. Hysterical mania is that form of a deranged mind, when hysteria, caused by an irritated state of the organs of generation of women, is aggravated by other physical or moral influences; when the usual symptoms of hysteria are modified by a great variety of other, sometimes very distressing phenomena, among which might be mentioned uncontrollable desires, loss of consciousness, suspension of volition, and maniacal hallucination. If the disease is manifested by indecent acts, or improper conduct, it is called nymphomania. Hysterical mania, as well as nymphomania, are not permanent, but spring up by sudden attacks, of a periodical character, often excited by vexation, grief, or other emotional influences; and last, in some cases, only a few hours, in other cases, several days. Many other names have been applied, either to particular symptoms or causes; but inasmuch as these names do not change the nature of the malady, which is always the same, namely, delirium, or over-oxydation of more or less cerebral matter, in different parts of the brain, producing different phenomena, the names are only a matter of convenience, to distinguish some of the forms of the disease, but have no influence on the treatment, which depends on the physical causes—different in each particular case.

The name of melancholia has been given to those mental disorders in which the feelings and instincts are perverted; changing, for example, love into aversion, morality into immorality, modesty into immodesty, and the natural attachment for life, into a strong desire for self-destruction. Many persons affected with this disease are gloomy, and feel an aversion for society and friendly intercourse, without any cause, even with their best friends and nearest members of the family. They are also sometimes subject to irresistible unnatural desires, and bear a general strange deportment. Mothers, apparently perfectly sane, killing their children, without any other reason than an irresistible morbid impulse; or persons haunted, day and night, by an irresistible desire to commit suicide, without any cause, are affected with this form of lunacy. It is also well illustrated by the old couplet:

I do not like thee, Doctor Fell,
The reason why, I cannot tell.

This disease has also been called by some, moral, by others, emotional insanity.

The localities of the nerve-centers, in which the feelings and instincts are generated, are still unknown; but by analogy, there can be no doubt that in whichever part of the brain they might be situated, their manifestations are the result of the irritated state of these particular parts of the brain; often by the sympathetic irritation of the urinary passages, by acid urine, or gravel, consequent upon a deranged state of the digestive organs.

Melancholia might exist isolated, as also combined with other forms of lunacy.

Dementia, or idiocy, is that state in which the cerebral irritation or inflammation, with symptoms of mania in its various forms of delirium, or melancholia, having lasted a certain time, have occasioned the permanent disintegration or alteration of more or less brain-matter; impairing thereby forever, more or less, the mental faculties, and sometimes also the powers of motion.

The symptoms of idiocy are well known, and do not require any illustration. In this disease, the damage already suffered in the cerebral substance, cannot be repaired; but this state, being often combined with other forms of mental derangements, by the effect of the organic disorders, by attending on these disorders, the further annihilation of the mental powers can be prevented.

The manifestations of delirium are innumerable. When only the optic ganglia are affected, phantoms, the devil, or other images are seen by the patient, producing a great fear and perplexing his mind. In derangements of the auditory ganglia, he hears voices of persons, sometimes known to him, talking and teasing, and often exciting his anger. In disorders of the olfactive ganglia the odor of substances seem to him different than common. If the disease affects the gustatory ganglia, it is the food that does not taste natural to him; when often he will refuse taking any nutriment or medicines for fear of being poisoned. If the central ganglia are irritated or inflamed, there is an irresistible inclination to talk alone on a great variety of subjects, although reason might still remain unimpaired. But when the convolutions of the brain are irritated or affected, the patient becomes irrational, more or less, according to the importance and to the extent of the disease. When a preacher is in a state of delirium he is very apt to say the same prayers he is accustomed to offer during his religious services. A lawyer will talk on law, a trader on dollars, sugar, or needles. Other persons will speak on those topics which have been most strongly impressed on their minds. Hence, it is evident that the delirium is the involuntary evolution of impressions, or ideas, engraved in the cells of the ganglia by over-oxydation, consequent upon an excess of arterial blood therein, and that therefore, delirium and its effects, are entirely beyond the powers of volition.

Persons affected with cerebral diseases, are seldom aware of their mental condition; and when considerably annoyed by delirium, in any form, attribute their trouble to the effect of supernatural influences.

In many cases of mental aberration, no visible alterations in the cerebral matter can be found after death, showing that the nervous symptoms were dependent on the periodical sympathetic irritation of the brain, by the disordered state of other organs, and sufficiently strong and persistent to effect permanent changes in the nervous tissues. In other cases, more or less inflammation, induration, softening, collections of matter, or other alterations, are found in the substance of the brain. In partial insanity, these changes are present only in one of the cranial hemispheres. In dementia, or idiocy, with permanent loss of a great part of the mental powers, however, the alterations, or the destruction of the cerebral matter, are found on both sides of the brain.

These remarks are not idle theories, but true facts, founded on observation and experience, or the logical deductions drawn from these facts, well known by all the physicians familiar with the minute anatomy and the physiology of the brain, the pathology of the nervous affections, who had occasion to observe lunatics, and to attend on their ailments.

In order to prove the correctness of the facts alluded to, by their partial application, I beg to detail a few, among many cases of insanity, in its various forms, which, in the course of a long private medical practice, have come under my observation.

CASE 1.

The wife of a farmer, aged thirty-five years, having experienced some domestic trouble, had been, for some time, slightly deranged in her mind without any attention being paid to her condition, when, at once, she became a furious maniac, smashing everything and attempted to set fire to the house, declaring that the evil spirit had taken possession of her soul, and that, if she must go to hell, everybody in the house should go along with her.

I ascertained from her husband that she had been constipated for a long time, and that her periods were irregular. I saw, also, of her being in a state of plethora, by which an excess of blood was also kept in her brain.

Diagnostic.—Acute mania, by grief, plethora, derangement of the portal circulation, and some uterine disorder. In meeting her, she told me, as lunatics often do, that she was not sick, did not want any doctor, and refused taking medicines, but added, that, if she must go to hell, her husband should go with her. To this I replied that her desire would be easily accomplished by a powder I would give her as well as to her husband. Thinking that I intended to poison them both, she readily accepted my proposition, and both opening their mouths at the same time took a full dose of jalap and calomel. During the operation of the purgative she became furious, and filled the room with green and black matter expelled by her bowels. But this evacuation relieved her brain to such a degree that on the following morning I found her quite calm. When she saw me she said that doctors had no power over evil spirits, and that Jesus Christ, alone, could deliver her from Satan. She being a Catholic, I procured a prayer book of her creed, and when she observed the image of the Savior on the frontispiece, she kissed it, knelt down, and began reading a prayer. Meanwhile I had tied a bandage around her arm and was in the act of opening a vein, when she asked what I was doing. I told her that, unless a vein was opened, the devil could not get out by her prayers; and, in this manner, was successful in abstracting about one pound of blood. After the operation she remarked that she could feel of her tormentor being partially but not entirely out, when I assured her that I would expel the rest by other means.

Presuming her organs of generation to be in a disordered state, I requested her husband to persuade her to consent to a physical examination, which she positively refused, pretending such an examination to be a sin. In this emergency I had recourse to the kindness of Rev. Father Largan, her pastor, now in San Francisco, who impressed upon her mind that it would be a great sin to oppose her medical treatment. Thereupon she asked him whether, by following the doctor's directions, she would see God after her death, and on being assured that certainly she would, I had no further trouble with her.

The rest of the treatment consisted in minute doses of mercury and saline purgatives, some leeches applied to the neck of the womb, copious vaginal irrigations of warm water, and afterwards, the use of the douche. Thereby she got entirely well after about one month. Two years afterwards, however, some of her bodily ailments having returned, her mind became again somewhat disordered, and her husband, being

unable to take care of her, brought her to the Insane Asylum of Stockton.

CASE 2.

I was requested, not long ago, to see a gentleman, fifty years of age, having the idea that everybody was conspiring against him; and fancied seeing armed men endeavoring to take his life. He had intrenched himself behind his bed, gun in hand, ready to defend himself.

His wife informed me of some difficulties he had with some property; said he had complained of a pain at the pit of the stomach; had passed some pieces of tape worm; and, of late, had been drinking more than common.

Diagnostic—Mania, by grief, gastro-intestinal irritation, and alcoholic stimulation.

Treatment—Podophyllin, oil of turpentine, with castor oil.

Got well in a few days, and has enjoyed good health ever since.

CASE 3.

A lady, forty-five years of age, had been suffering for several years from hysteria, gradually assuming the form of hysteric mania, which, for some time, had manifested itself every month, lasting each time from three to four days, and of late had become of a very violent character—almost like acute mania. Having been called to see her during one of her severest attacks, I could do little for her at that time; but as soon as the paroxysm subsided, I ascertained, by physical examination, of the existence of a very offensive vaginal discharge, having caused numerous corrosions on the neck of the womb, on the vagina, and on the vulva. The uterus was inflamed, anteverted, and indurated on its anterior aspect, and there also were clear evidences of the lady being in a state of anemia and dyspeptic.

Diagnostic—Hysteric mania, by the causes related.

Treatment—Repeated cups and blisters below the loins; vaginal irrigations of warm water; cauterization of the sores; a soft sponge, sometimes with mercurial ointment, and at other times with ointment of iodine of lead, carried in the vagina, and tincture of iodine applied around the naval. Internally, poprine, iron, dandelion, minute doses of mercury, and mild laxatives.

The vaginal discharge soon subsided, and the sores healed; digestion and the blood gradually improved; the nervous attacks became less severe, and lasted a shorter time every month, and after four or five months disappeared entirely.

CASE 4.

A gentleman reported to me, with great consternation, some seven years ago, that his wife—twenty-four years of age, who had always been gentle and kind to him—had been assaulting, for a day or two, in the most unbecoming manner, almost any man passing by her house—attempting to drag them inside for the purpose of having sexual intercourse with her.

When I paid her my visit, she received me well, and did not exhibit a single sign of mental disorder. Being questioned as to whether she was aware of what she had been doing, she told me that she was, but said that she could not help it—being impelled by a force she could not resist,

and was unable to account for. I found, however, soon, the cause of her trouble.

Diagnostic—Nymphomania by plethora, indigestion, light uterine engorgement, and excessive irritability of the organs of generation, consequent upon perverted secretions.

Treatment—Venesection, warm baths, vaginal injection of infusion of German chamomile, small doses of calomel, and saline purgatives.

Recovered immediately, and has been well ever since.

I had another case of the same character two years afterwards, with a lady married only a few days before.

CASE 5.

A well known gentleman in this city had been suffering for some time from a great depression of spirits, gloomy thoughts, and was so distressed in his feelings as to be totally unfit for business. He could distinctly hear voices talking in his ears; was unable to sleep, and haunted day and night with a desire to commit suicide, for no reason whatever. The color of skin evinced a disordered state of his liver, and I was also informed of his urine depositing a brick-colored sediment, evidently by an excess of acids generated in his stomach by impaired digestion.

Diagnostic.—Melancholia by hepatic, vesical, and gastro-intestinal irritation.

Treatment.—Cups to the nape of the neck; hot footbaths; blue pills, with extract of dandelion; laxatives; and flaxseed tea with carbonate and ascetate of potassa. Lost by degrees his sleeplessness, voices in his ears, and bad feelings. Recovered entirely after two or three weeks, and has been well ever since.

Now, for what reason should this rational, physiological, and effective treatment not be applied to the patients of the asylums for the insane? Why do the physicians of these institutions not come up to the present state of scientific knowledge, and persist in treating insane persons in an empirical manner, and counteract only the symptoms by resorting, among other means, to opium and its preparations—henbane, hemlock, belladonna, stramonium, Indian hemp, hydrocyanic acid, chloroform (Winslow), or hydrate of chloral (Crawford)—in violation of one of the cardinal doctrines of medicine, teaching that no narcotics or sedatives should be given when the brain is involved in a disease?

Indeed, these medical agents are little more than palliatives; and in certain emergencies are useful as such. Applied in insanity, they will sometimes calm the nervous excitement by stupefying the patient, at the risk, however, of converting curable mania or melancholia into hopeless dementia or idiocy, or inducing even coma and death. There is, therefore, a fearful moral responsibility in administering such substances to the insane, and no physician is justified in doing so, except under the pressure of imperious circumstances—when there is no possibility of acting otherwise. There can be no doubt that many cases of death, in the asylums for the insane, are caused by narcotism, and that not a few cases of idiocy are the effects of these very substances, administered to keep down the excitement instead of removing the cause of the malady.

There are other dangerous practices, in the present treatment of the insane, which it would require too much space to detail. But the fact, that, perhaps, over one half of the patients discharged from the insane

asylums, as cured, relapse again into insanity a short time afterward, is a clear evidence that the different physical causes of the mental disorder, in the respective cases, has never been properly attended to, and that the mode of treating this malady, at the present time, is ineffectual.

This is, moreover, proved by the Reports of the American Hospitals for the Insane (*American Journal of Medical Sciences*, April, 1869); of the New Hampshire Asylum; Connecticut General Hospital; Massachusetts State Hospitals (at Worcester and Northampton); New York State and City Asylums; Frankford Asylum; Mount Hope Retreat; Longview Asylum; Indiana Hospital; Michigan Asylum; Alabama Hospital; and California Asylum.

The aggregate number of patients treated in these institutions is...7,238.
Of which died..... 561, or 7 5-7 per cent.
Discharged, nominally cured.....1,191, or 16 3-7 per cent.

The percentage of the new cases only, admitted and apparently cured during the year, average from thirty to forty per cent; showing a very unsatisfactory state of affairs. And while much care has been given to the improvements of buildings, and other necessaries, the medical treatment of Esquirol, in Paris, at the beginning of this century (*Pritchard's Cyclopaedia of Practical Medicine*), was quite as successful as the results obtained to-day, notwithstanding the immense progress made, since that time, by the medical sciences.

The facts and considerations, embodied in the preceding pages, show conclusively:

First—That permanent insanity is caused by the alteration or the irreparable destruction of more or less cerebral matter in both hemispheres of the brain.

Second—That persistent mental alienation is the effect of uncontrollable delirium, or over-oxydation of some parts, on both sides of the brain, consequent upon the persistent irritation or inflammation of those parts by the effect of several often curable physical disorders, sometimes aggravated by moral influences.

Third—That partial insanity is the result of similar influences, physical and moral, when only one of the cranial hemispheres is involved in the disease.

Fourth—That occasional attacks or paroxysms of mental aberration are generated in persons affected by excessive nervousness, or abnormal nervous irritability, by one or more organic disorders, when the nervous affection is occasionally aggravated, or transformed into fits of insanity, by temporary physical or emotional influences, of a shorter or longer duration.

Fifth—That passions, such as anger, despair, or vengeance, are the effect of no physical disease, but spring up by the temporary cerebral excitement and mental derangement occasioned by contrarieties or provocation. Hence there can be no insanity without some kind of physical disorder—no passion, without some kind of provocation or mental excitement; while a voluntary criminal act is performed in cold blood, with evil intent, and without personal provocation. For the possession of property may become a provocation, and excite covetousness or envy, but is not a personal provocation capable of producing anger or vengeance.

In most countries on the continent of Europe, no person is permitted to contract marriage without the consent of the parents; and even after majority, without having accomplished certain formalities. On the other hand, parents cannot dispose by testament of more than a certain part of their property, and after death, the rest belongs, by right, to the surviving parent and to the children, who cannot be disinherited, unless they have conspired against the life of the deceased. In America it is different, and children over a certain age may do on this subject as they please; but if the parents are not satisfied with their conduct, they might be disinherited. Under such circumstances, the validity of wills is often contested by the interested parties, under the plea, that when the will was made the testator was unsound in mind. The testimony in such cases brought forward by both parties is generally contradictory, and unless positive proof of bad health, and other insane acts, can be adduced by the contesting parties, the question turns on the point: whether or not the deceased had any reason to be dissatisfied with the conduct of his disinherited offspring, and had kept up friendly relations with him; for parents, having a natural love for their children, are always disposed to promote their well being, if they have properly behaved. There are other cases, in which priests or ministers, physicians, attorneys, or attendants, exert an undue influence over persons a short time before their death, and obtain legacies to the prejudice of the legitimate heirs, with whom the testator had always been friendly. Such wills are also often contested under the plea of insanity. In these cases it is evident, that while the testator might have been sound in mind his whole life, the disease which ultimately carried him into the grave could not but impair, more or less, his mental faculties: and if such legacies are excessive, there can be no doubt that undue influences had been exerted, and that the testator, when he signed his will, was incapable of fully appreciating what he was doing.

Horace Hawes, the San Francisco millionaire, adjudged insane after his death, had been at a time endowed with superior mental power. By the effects of a gastric and pulmonary affection, from which he had been suffering for several years, however, he had contracted an excessive nervous irritability, attended by a strange deportment and eccentric desires, degenerating into a strong antipathy for his wife and children; although they had always been true, submissive, and kind to him. To them he left by his will only a small pittance; and laboring under the illusive desire for a posthumous fame, he willed the bulk of his fortune to trustees, for the formation of an university. Had he been, like Mr. Peabody, of London, without a wife and children, such an act would have been rational. But to satisfy a childish whim at the expense of the well-being of his family he should have loved, demonstrated a perverted state of the mind; undoubtedly, the effect of his malady.

All men possess a natural instinct for the preservation of life, to which every one clings even when suffering from the greatest adversity; and no man, if not diseased in body, will ever attempt self-destruction as long as he is able to keep his head cool.

Love is the sweetest among the feelings or sentiments, which, when strong, is turned into a passion, and if excessive, leads to imprudent or irregular moral actions. If a man in love with a woman is jilted or trifled with by his sweetheart, such an action might excite his anger and despair to such a degree as to kill the woman, and to attempt to destroy himself afterwards. Such an act is passion, not insanity; and inasmuch as the man had a free choice in his actions, he should be pun-

ished by law, although not with great severity, considering that the homicide was the result of a great provocation. If a woman is disappointed in her love, and kills her lover, she is precisely in the same position. But if this woman is affected by bodily disease, which for many years had subjected her to a nervous affection, liable, on the least provocation, to create attacks of mental alienation, the question is entirely different. If such a woman, after having been disappointed by her lover, takes his life, there can be no doubt that the deed was occasioned by an irresistible morbid impulse, a natural effect of her disease.

In Mrs. Fair's case, the depositions of the physicians, who had attended on her for a long time, have shown, in both trials, that the defendant had been suffering, during many years, from dyspepsia, rheumatic gout, irregularity of her periods, uterine displacements, and other disorders, attended by almost monthly short attacks, sometimes of hysteria, at other times of hysteric mania; at times complicated with melancholia, manifested by strange, capricious notions, irregular moral conduct, and an occasional strong desire to commit suicide:—at one time actually attempted; and also by an attempt to take the life of her mother and child. The defendant had never been a raving maniac, nor an idiot, fit to be sent to the insane asylum. She had always been, apparently, perfectly sane, except during her nervous attacks, sometimes aggravated by atmospheric or by moral influences. Under such circumstances, the strong mental shock received by Mrs. Fair while witnessing Mr. Crittenden's meeting with his family was, in the opinion of her physicians, quite sufficient to unsettle completely her mind, and to suspend, temporarily, the powers of her will.

In the first trial, the jury, influenced by public opinion, set aside the medical testimony, and, without deliberation, found a verdict of murder in the first degree, and caused her to be condemned to death.

In the second trial, in which no other plea than insanity was set up by the defense, the District Attorney did not produce experts conversant with the case, but medical gentlemen, who considered it more from a moral than from a scientific standpoint, and had beforehand expressed their opinion on its merits, mostly founded on the moral points brought to light by the first trial. Such a testimony, therefore, was and could be only confused, contradictory, and unscientific. Some of the physicians were in doubt as to the sanity of the defendant; and one among them was candid enough to express his conviction that the doctors who had seen and studied the case were the most competent persons to judge of the defendant's condition. Yet, all these experts in rebuttal were of the opinion that, at the time of the homicide, she was sane, because, before going to Oakland to witness the meeting, her actions had been rational. They forgot, however, as above demonstrated, that the insane are irrational only in acute mania, in dementia, and in idiocy, while in many cases of mild mania, in monomania, in hysteric mania, in melancholia, and in all the other forms of periodical or occasional mental alienation, the patients are usually perfectly sane, or at least appear to be so, and will talk nonsense or commit insane acts only during the time of their paroxysms. They forgot, also, that lunatics are subject to morbid feelings which they are unable to master, though otherwise they might appear to be perfectly sane.

The doubt as to her sanity, however, saved Mrs. Fair's life, and the jury, who effected this result, were severely censured by public opinion, and by the greatest part of the press in America, although the moral aspect of this case had nothing to do with the medical question, since

scientific facts are not governed by majorities nor public sentiment; for while, until the time of Galileo, the whole world thought the sun was turning around the earth, this unanimous opinion had no influence on the motion of the celestial bodies, and could not alter the laws of nature.

At any rate, even had Mrs. Fair never been affected by any disease, and consequently not been entitled to set up the plea of insanity, her deed had not been an unprovoked murder in cold blood, with evil intent, entailing the penalty of death. In that case it would have been a homicide, excited by passion, consequent upon a severe provocation, which, among all the civilized nations, is considered to be an extenuating or mitigating circumstance; for, whatever might have been her conduct, the correspondence between the parties has proved that Mr. Crittenden had trifled for many years with her affections, and repeatedly had broken his promises, the last of which, at the very moment of the meeting in Oakland, could not but excite a passion scarcely controllable even by the coolest mind. Moreover, there can be no doubt that her moral conduct had been, in a great measure, influenced by her bodily ailments and by the circumstances in which she had been placed, over which she had no control. There is a great difference between a person who, in cold blood, without any personal provocation, kills with arms or with poison a man for the purpose of robbing him of his money, wife, or property; or another man, who thinking himself, with more or less plausibleness, injured, or wronged in his honor, property, or otherwise, by another man, and kills him by the impulse of his passion. In the first case, it is clearly murder in the first degree; while, in the second case, it can be only murder in the second degree. American jurisprudence and juries do not sufficiently discriminate between such cases; and many persons have been hanged in California, although their crimes had been the clear effect of passions which cannot be excited without some kind of personal provocation.

The term "malice," applied in such cases, is ambiguous; and, according to Webster, means to injure others without cause, from mere gratification or spite; with malevolence, which is an act of insane persons only, and therefore does not express correctly the meaning of the law. Nor is the word "premeditation," applied in criminal jurisprudence, less objectionable, inasmuch as there might be premeditation:

First—In an homicide performed in cold blood, without personal provocation; which is murder in the first degree.

Second—In an homicide accomplished, after the mind has been excited, or agitated by some personal provocation, the homicide being more or less justifiable, according to the nature of the provocation and the circumstances connected therewith. For example, if a woman, whose honor is dearer to her than life, is slandered, and kills her slanderer with premeditation, it is not insanity, but vengeance, though generally considered to be justifiable, if the woman has really suffered by the slander. Such a case has been tried, a short time since, in Petaluma, in which a single man, in love with a married woman, had circulated slanderous reports against her chastity, and had attempted to suborn several persons to prove these slanders, with the object of effecting a divorce from her husband, who, believing the false reports to be true, actually separated from his wife. Thereupon she killed her slanderer with premeditation, and was acquitted by the jury.

It is evident that while in anger the mental orgasm is only temporary, and soon subsides, leaving the mind clear, in grief, and after those in-

juries which provoke a feeling of resentment or vengeance; on the contrary, the mental excitement or the moral pain is of a more lasting character, and keeps the judgment on this particular point unsound sometimes for a long time. This phenomenon is observed in the personal as well as in the public mind; well demonstrated by the irrational public feeling in San Francisco against Mrs. Fair, as well as by the last insane acts of the Commune of Paris.

Among the wild Indians, the insane are considered supernatural beings, inspiring them with awe. The Mahomedans hold them to be marabouts, or saints, whose spirit is with God; wherefore, they are treated with great reverence. Among us, who boast to be Christians, certain lunatics were, not much over a century ago, believed to be witches, and burnt at the stake. To-day witchcraft is exploded, but by the fact of people generally being uninformed of all the manifestations of a diseased mind, many insane persons are sent to the penitentiary, if not to the gallows.

Therefore, when a physician is called upon to serve as an expert in a civil or criminal case involving the question of insanity, he should be prepared to enlighten the jury and the lawyers, and answer, to all the questions propounded to him, in a clear, intelligible manner. He should, especially, point out the difference between insanity and passions, and explain their nature and the limits between them; and his opinions should not be based on ideal assumptions, but upon scientific facts, upon which there can be no difference of opinion among respectable physicians. Thereby he will earn honor to the medical profession, prevent errors in the Courts of justice, and promote a correct application of the laws.

REPORT ON PROBATIONARY ASYLUMS FOR THE INSANE IN LARGE CITIES,
BY A. B. STOUT, M. D., OF SAN FRANCISCO.

On a former occasion, before the Medical Society of the State of California, session of eighteen hundred and seventy-one and eighteen hundred and seventy-two, I had the honor to present some suggestions upon the subject of a reform in the care and treatment of the insane in the large cities of California.

The views then stated were hastily advanced, in the hope that some modification of proceedings, in regard to the State Asylum about to be constructed at Napa, might be promptly introduced before it would be too late to alter the system.

Having learned, since then, that those suggestions were favorably regarded, both in the profession and by the community, but could not be acted upon without first obtaining legislative sanction, I now venture to introduce this, in my estimation highly important subject, before the State Board of Health.

With the aid of this Board, the honorable Legislature of the State may be more favorably inclined to adopt the proposed improvements.

To avoid reviewing, I take the liberty to attach hereto the article upon the subject, taken from the proceedings of the State Medical Society, eighteen hundred and seventy-one and eighteen hundred and seventy-two:

PROBATIONARY ASYLUMS FOR THE INSANE.

"The appropriation of the necessary funds by the State of California for the erection of an additional asylum for the insane, and the choice of its location in the beautiful and salubrious Valley of Napa, renders the moment opportune for the discussion of the subject of the care of the insane in large cities. The propriety of locating asylums for this class of invalids in situations remote and secluded from the excitement of cities, refreshed with the pure air of the country, and surrounded with landscape scenery to divert the mind from its distracting griefs, cannot be contested. But these sites have, nevertheless, a number of objections. The object of this paper is to endeavor to overcome these very serious inconveniences.

"The organic element of the American Constitution is the liberty, the perfect freedom, politically understood, of every man; nor can any individual be forcibly deprived of his freedom without due process of law. This truth oftentimes works much temporary evil. So full of wrongs and deceptions are the records of litigation and of crime, that the most acute legislators are driven to their wits' end to provide statutes to meet and counteract them. Hence comes the inevitable provision in law that no person insane, or considered to be insane, can be hastily secluded in an asylum for lunatics, either by his family or friends, without being first presented before a judicial authority, with two sworn medical witnesses as experts, to testify to his insane condition, and even then it must appear that his insanity is of a nature to endanger his own welfare or that of the public at large. It is only under such circumstances that he may be deprived of liberty and committed to the safe keeping of a State insane asylum. Who acts otherwise, becomes exposed to the consequences of expensive litigation and onerous damages. For this reason, also, it is that private asylums for the reception of the insane are deprived the privilege of receiving patients who otherwise might be advantageously entrusted to their care. At this state of things the public, whose intelligence is only fed by its own immediate experience of the day, is sometimes startled to wonder, to find that their application to hurry off an insane person to an asylum, public or private, meets with a check, and are forced to provide for a troublesome burden they cannot safely manage, until the requirements of the statutes shall be complied with. This deference to the law, however, may consume three or four days. Now, what's to be done? Insanity, like time or tide, waits for no man. Its capricious thought strikes on the instant, and laughs at order's discipline. In this fearful family dilemma, who knows what may turn up? The subject of the malady may commit suicide; may kill his wife, or his father, or may kindle a flame to destroy a house, a ward, or a city. The excitement of the moment prevents deliberate action. Much time and money are spent to find nurses, physicians, the Judge, medical experts; and all this care is destined, perhaps, to be frustrated by some desperate act of the maniac. The same uninstructed public is little aware how long is the catalogue in the records of lunacy, of what may be named *imputed insanity*, or to what extent fraud and malice have exercised their ingenuity to accomplish the ruin of their victims. By *imputed insanity* is meant the assertion, generally for fraudulent purposes, that a sane individual is affected with some form of insanity which renders him

incompetent to be at large, to attend to the affairs of his estate, to execute legal documents, and consequently requires to be restrained of his liberty and confined in an asylum. The charge will often be made that the intended victim may be sane on general topics, or at certain periods; but subject to sudden alienations of mind, during which property is sacrificed. Such cases often require several weeks of probation to discover the falsity of the charge. Many a sane person has, on such imputations, been confined, as it were, incarcerated, to his great damage, for long periods in an asylum. This time of seclusion is diligently employed by his enemy to dispossess the victim of his property, or destroy his family. In some instances, the sane man has thus been driven in his despair, to veritable madness. Such a harm does not cease with the detection of the fraud and restoration to liberty. The name stands forever on the register of the asylum, and in future years—in another generation—may be produced to show hereditary insanity in the family.

“In this connection, and in many cases of true incipient insanity, judicious physicians are exceedingly slow and reluctant to sanction the commitment of a patient to a public asylum. An incipient mental alienation of a transitory nature, dependent entirely upon a transitory or temporary irritation of the brain, an arachnitis, as ephemeral as a pleurisy, actually and entirely curable in a week, does not deserve nor require a commitment in lunacy, which compels the record of an individual for all time upon the registers of an insane asylum. Such a registration for all time exposes a family for all time to the imputation of hereditary insanity. A profound wrong, affecting the intermarriages and disposition of estates for generations, may thus be accomplished by undue haste in hurrying a case of ephemeral insanity into forced seclusion. For, after all, a commitment on a petition *de lunatico inquirendo* is a modified incarceration, and carries with it all the results in law which may be derived from hereditary insanity; therefore, it may be repeated, a cautious physician, a true expert, is very loath to pronounce the fiat of insanity.

“Another class of inmates who appear in lunatic asylums, are those who feign insanity. The exquisite finesse with which clever minds assume a *feigned insanity*, often baffles the acuteness of practical experts. Much time, cautious observation, and skillful experiments, are required to detect their cunning artifices. To effect a purpose this feigned insanity will defy reason, and oftentimes win in the encounter of wits; but feigned insanity, when recognized, has no privilege to the refuge of a State asylum. Its charity is abused, and its finances are wasted.

“Now comes monomania upon the stage of life; its protean forms; its infinitely diversified eccentricities; its myriad of phases which defy the skill of the analyst of mental philosophy—so calm and quiet, so genial and polite at one moment, so wild and raving at another, when the wounded organ of the brain is chafed or touched. All these modifications instruct the discriminating mind that they cannot be alike promptly disposed of and dismissed to forced seclusion. A few days of repose will restore many to reason and health. Those who appear inevitably doomed to permanent lunacy can, by a process of probation, be selected without danger of error. The limited time allotted for discussion before the society precludes further illustrations in the analysis of incipient insanity, and its treatment in asylums. If, then, it be admitted that these views are correct, that much harm results from these delays, and that it is oftentimes impossible to arrive at a true decision in doubtful

cases by commissioners on lunacy, then it follows that a great public benefit would result by adopting measures for relief.

"A probationary asylum in San Francisco would apparently afford the necessary refuge. In this institution a person insane, or supposed insane, would be in probation, and consequently not subjected by any writ of commitment to compulsory seclusion. Should a cure be effected during probation, the obloquy which often follows would be spared. The great benefit to be derived, is the quickness with which dangerous attacks of insanity may find shelter and security. Any one conversant with the embarrassments and delays attendant upon the disposal of a person taken suddenly insane, will recognize the advantages of such a subsidiary institution. The insane are generally peculiarly reluctant to appear before a Judge in his chambers for examination. All kinds of persuasions and artful devices are often required to overcome their prejudices. The probationary asylums would facilitate and shorten the process, for the invalid could be immediately transported there, and *there* would then be the most convenient place for the Judge and medical experts to assemble for the examination; and the search into the patient's true condition could be easily repeated as often as necessary. Very few families, and even hospitals, possess the necessary appliances for the management of insanity, but they would be ready in cases of acute disease, for instant use in a probationary retreat.

"As the adoption of sanitary reforms often depends upon the expense to be incurred, something may be said upon the economic value of such an improvement. At first sight, it appears like an extra expenditure of great magnitude to establish an extra asylum in large cities. The old idea is no longer patent that insanity is of a nature so special that only specially educated physicians are capable to understand its phenomena. As the aberrations of the mind are but the evidence or symptoms of the disorder, functional or organic, of the physical structure of the brain, so may the instructed physician, from those symptoms, locate the malady to its anatomical relations in the brain, the same as in diseases of the lungs or heart. If, then, the ephemeral diseases of the brain, like those of the lungs or heart, after a fair probation, are left to the general profession, a great abatement in the statistics of insane asylums will appear. What is expended on a probationary asylum, would be deducted from the cost of the rural institution. It is quite certain that if a careful elimination of doubtful, transient, or easy curable cases were thus made, that an auxiliary asylum to that of Stockton would not have been required. If, by the possession of a probationary institute, with its necessary appliances, the frequent cases of delirium tremens, of cerebral alcoholism without delirium tremens, of mania, or less acute insanity from menstrual disturbance, or uterine disease, were abstracted, how great would be the reduction in the statistics of the insane asylum, and the records of hereditary insanity. Thus, it might possibly be shown, that an actual economy would result from such a sanitary reform.

"As, however, I feel myself called to order for the lack of time, I respectfully submit, in brief, the above suggestions."

The department in medicine of mental philosophy, at the present day, enters more than ever into the domain of the general surgeon and physician. Psychology is no longer the holy land of the metaphysician. The ages when mental diseases were an isolated class among the infirmities of man; when mind was considered an ethereal emanation apart from

matter; when the soul had no further relation to the body than a tenant to a landlord, responsible to return it in as good condition, wear and tear excepted, as received, to the owner; or, intended as a gem in its golden setting, only to adorn and beautify its elegant workmanship; then were the wonders of psychology shut up in a casket, closed to all but priests and scholastic philosophers.

In those dark times, the diseases of the mind were regarded as divine punishments, and as such, to interfere with them was a sin of utmost temerity. To increase their poignancy was sometimes deemed a merit. But now, with the progress of mental and physical science, and the union of all departments of science in the investigations of medicine, philanthropy has found her true auxiliary and ally. Mental alienation, as now accepted, is only a symptom. Overwhelming, as often that symptom may be, it is but the evidence and testimony of the disorder of a material organ—the disturbed function of the organic brain. Every organ of the body having its ordained function as endowed by the Creator, finds in its diseased conditions no other expression for its suffering than exaltation or depression of those functions: viz., the disordered processes of matter in the organs of vegetative life—the disordered emanations of mind in the organs of intellectual and moral being; hence it is, that the physician may “minister to the mind diseased.”

Mental disturbance is very often the first precursor of physical disorder. The overwrought brain will utter its first complaint by mental signs, and that “change of character,” so often witnessed and spoken of, as from amiability to moroseness, intense irritability, in persons whose brain is beginning to yield under the pressure of care, is often the warning prelude to insanity.

It is easy, then, to understand how great must be the advantage of preventive care at the opportune moment, and without exposure to public notoriety.

The idea, to establish probationary asylums in large cities, endowed by the State, is based upon the urgent necessity, the pressure of which is every day increasing, of finding some corrective to the embarrassments, abuses, and expenses, which fall with most discouraging weight upon the first cares to be bestowed in cases of insanity; and secondly, to obtain relief for the demoralizing influences, as well private as public and professional, which surround the medical jurisprudence of the present day. In the first category of cases, the care of the innocent insane, struck more or less suddenly in the midst of their avocations with cerebral disease, the kindest and most devoted relatives and friends are baffled and disheartened—in a word, they quit the responsibility because they either know not, or have not the money and time to overcome the difficulties. In the delays of this dilemma, the sufferer is often sacrificed.

In the second category of cases, the inconsistencies and abuses in medical jurisprudence, as well criminal as non-criminal, the state of public opinion is a libel and a lie upon both medical and legal ability; but it impinges with peculiarly arid expression upon the medical department, in consequence of the peculiarly false position in which it is involuntarily dragged before the community by the imperative subpoena. In all its manifold physical distresses, the public flies to the medical man for relief, and as far as it can estimate, will accept none but the most competent; but yet, when unfairly corraled in a Court, is but too happy to catch him foul, and hold him up to contempt or ridicule.

Now, from this wrong dealing, the profession is entitled to seek

redress. It is most true, that all the professions—theology, law, and medicine—possess adherents whose education is insufficient, and, happily for their vanity, the most insufficient are the most unconscious of their mental condition; but it is certainly sure, that the medical profession, when fairly interrogated, maintains its dignity, and supplies in medical jurisprudence the scientific truths without which the law cannot adjudicate justice and equity.

At the present time, when the finest finesse enters into all litigation, the plea of insanity is converting trials in every department of law into cases of medical jurisprudence.

With probationary insane asylums, the bulk of these tergiversations may be evaded. Of course, no fortress can be built which shall present no vulnerable point. Illustrations too numerous for this paper might be cited; but I will select one of great importance—one which is truly a stultification of law in the appeal to medical experts for medical instruction—and for which the system of probationary asylums may be made to afford relief.

If in trials, which involve the question of insanity, medical men receive a subpoena-command to appear, *nolens volens*, as law abiding citizens, to elucidate some doubtful or contested points of psychological disease, and are instructed to appear and so do, “for the defendant,” or “for the plaintiff,” why should they not at once be made partisans and be retained and paid with handsome fees, the same as the legal expert, by the defendants and the plaintiffs? By the present anomalous procedure, he is solemnly invited to sacrifice truth, and subject the interpretation of testimony to the utmost possible elasticity of an inventive imagination in behalf of the subpoenaing party. How damning, then, to that party if his own expert happens to testify unfavorably.

The whole idea, therefore, of summoning experts, as *pro* or *con*, is one of those contradictory absurdities which yet cling to the law, like many old, perversely-maintained dogmas in religion, or old effete injunctions of medicine.

A medical expert, if required at all, must be dependent upon the truth of science, and independent of Judge, counsel, or jury.

It is by this false system of interrogation that medical experts are brought into unmerited disrepute. Under the guardianship of probationary asylums, competent experts, entirely disinterested, and duly compensated, irrespective of special litigations, might be elected. Their opinions would be scientifically impartial, and their entire time might be devoted to that professional specialty.

The subject invites to much more exhaustive discussion, but the nature of this report requires only a condensed statement of the advantages sought to be obtained.

First—Then the creation of probationary asylums for the insane, will insure prompt relief for the cure of persons afflicted with cerebral disease.

Second—Inaugurated under the protection of the State, and sanctioned by the legislative voice of the people, the plan will receive universal respect, and the support of law.

Third—It will protect individuals from false imprisonments and accusations, and the public from false testimony and legalized imposition.

Fourth—The system will purify judicial tribunals from venal and assorted testimony, and so economise time and expense in litigation.

Fifth—It will insure a board of disinterested experts (political interlopers excepted) to aid legal authority in the administration of equity.

Sixth—It will, by giving due time for recovery in ephemeral attacks of mental alienation, guard the record of families from the taint of hereditary insanity, unless inevitable by the force of facts.

In drafting a bill for the adoption of the Legislature of the State, the following conditions might be expressed:

First—The Legislature enact that Probationary Asylums for the insane in the State of California may be established in every city of — thousand inhabitants.

Second—Any individual insane, or supposed to be insane, may be received in said asylum on probation, and as such may be restrained of liberty without act of “de lunatico inquirendo,” the same as in general hospitals.

Third—The destitute may be received at the cost of the State.

The non-destitute shall pay.....	\$——	per day.
As taxpayers, for assessment— \$500.....	——	“ “
As taxpayers, for assessment— 1,000.....	——	“ “
As taxpayers, for assessment— 5,000.....	——	“ “
As taxpayers, for assessment— 10,000.....	——	“ “

Fourth—The probationary term shall not exceed ninety days; after which, if the individual remain insane, such person may be transferred to the general Insane Asylum by the usual process of law.

Fifth—The official staff of the probationary institution shall also comprise a Board of Referees in Lunacy, to which Board the legal tribunals shall have recourse in all cases in which questions of medical jurisprudence in lunacy, requiring the intervention of medical experts, shall arise.

The said Board of Referees shall consist of — physicians, regular graduates in medicine, appointed by —, and paid an annual salary of —.

The Board of Referees shall certify as to the state of health of all persons treated in the Asylum, to the date of their departure; but no such certificate, or any record of cases in the Asylum, shall be used as testimony in Courts; nor shall any such records be available, as legal evidences of hereditary insanity.

In an economic view, it is evident that the local probationary institution, besides sparing the costly traveling expenses incurred to and from the general Asylum in the country, will relieve the rural establishment of a very large percentage of easily curable insanity, and of cases which truly belong, except for the inconveniences of the mental symptoms, to the general practitioner of medicine. The expenses, therefore, of the general Asylum, will be greatly relieved. On the other hand, the large and productive farm of the rural institute will provide nearly all the required provisions for the city establishment. By this recourse a large amount from the extravagance and speculation, incident to the contract system, will be saved to the State.

To promote this economy, also, it should be constantly borne in mind that philanthropic institutions should be held independent of political appointments.

MEDICAL TOPOGRAPHY, CLIMATOLOGY, ETC.

In the last biennial report, some account was given of the general climatic features of the State, illustrated by meteorological results derived from competent observers in twenty-seven different localities. It is not deemed necessary to go over the same ground at this time, especially as there seems to be nothing remarkable in the meteorological records during the year eighteen hundred and seventy-two. There has been little or no deviation from the means already ascertained, and no obvious connection presents itself between the facts therein set forth and the death-rate, other than the usual increase of mortality after the decline of the Summer temperature, as shown in our table of mortality by months. There can be no question, however, that the extent of territory, and variety of climate and soil, within the limits of the State, render it a peculiarly favorable one for gaining valuable and comprehensive knowledge of the influence of various conditions upon the rate and causes of mortality. There is here an opportunity to compare, in the northern and southern parts of the State, counties differing by nine degrees of latitude; sea levels with elevations of eight thousand to ten thousand feet; and, what affords an unusual contrast, seacoast valleys chilled by an Arctic current, with vast interior prairies of almost tropical temperature. Doubtless, when sufficient time shall have been given to the study of these conditions—in connection with the death-rate as well as the birth-rate—the result will be a demonstration of important relations between them. Man's "struggle for existence" is largely with the elements. As has been pointed out by others, ⁽¹⁾ the progress of the human race has been almost completely controlled by climate. Only within certain limits has man been able to live and progress—the obstacles outside those limits heretofore proving too great. The most favorable climate has been shown to be where the mean temperature for the year is about forty-eight degrees to fifty-two degrees Fahrenheit; and along this isothermal line are a great majority of the most prosperous cities and countries. Human life and progress is there subject to the most favorable circumstances. The advance of knowledge, like this we are here seeking, will enable man to overcome many unfavorable conditions; to make progress in climates in which it has been difficult, and will tend greatly to increase the chances of life in the most favorable locations. With these ends in view I have solicited information from every quarter, and will gladly furnish proper blank forms—which have been prepared—for the uniform record of daily meteorological observations. As a model for this purpose, and for reporting the annual results to this office, is here inserted a valuable contribution from Turlock, Stanislaus County, by J. W. A. Wright, which originally appeared in the *Mining and Scientific Press*:

CLIMATE OF SAN JOAQUIN VALLEY.

A farmer's steady work and busy thoughts in laying the foundation for another crop, have delayed the preparation of a report in full for eighteen hundred and seventy-two of the temperature and rainfall of our inland climate. But here it is at last, made out for twelve months

(1) Disturnell, as quoted in third annual report of births, marriages, and deaths, in Michigan, for the year eighteen hundred and sixty-nine.

on the plan adopted for the past year. It enables us to approximate, for the first time, from actual observations for this part of the San Joaquin Valley, the average and range of temperature for the year, as well as for our Spring, Summer, Autumn, and Winter. I say to *approximate*, for we must remember, that to arrive exactly at such general averages for any climate, requires similar observations to be accurately made, recorded, and calculated for at least ten years; indeed, it is almost the work of a lifetime. Such as it is, however, permits the hope that it will not be a useless contribution to aid some future worker in making out the meteorology of our State. We have tried, by careful calculations from at least a thousand observations made in the course of the year, at or near the hours indicated, to form an accurate and trustworthy

TABLE OF TEMPERATURE AND RAIN-FALL.

YEAR 1872.	Average temperature.			Monthly mean.	Highest temperature.....	Lowest temperature.....	Rain—Inches....
	7 A.M.	2 P.M.	9 P.M.				
January.....	40.20	52.30	46.15	46.21	61	27.34	2.38
February.....	44.68	59.11	49.69	51.16	67	34.33	2.42
March.....	46.16	63.60	50.40	53.38	70	36.34	1.45
April.....	48.21	66.40	50.80	55.13	77	36	0.97
May.....	56.45	78.39	58.65	64.49	90	40	0.00
June.....	64.57	86.86	65.25	72.23	110	52	0.18
July.....	68.23	92.48	71.15	77.28	104	61	0.00
August.....	69.68	91.72	71.95	77.78	110	59.51	0.04
September.....	63.59	88.25	69.37	73.74	101	43.58	sprinkle.
October.....	50.57	77.19	57.25	61.67	94	38.58	sprinkle.
November.....	39.68	63.56	47.46	50.21	72	23.49	0.28
December.....	36.74	56.77	41.57	45.02	63	10.53	4.70
Annual.....	52.39	73.04	56.64	60.69	110	10	12.42

Our locality, as has already been mentioned in the *Press*, is on the plains of Stanislaus County, midway between the Sierra and Coast Range Mountains, and about half way between the Tuolumne and Merced Rivers. As we are not far from the center of the great grain-producing region of the San Joaquin Valley, our climate may be correctly taken as a type of the climate of the entire valley.

Let us briefly discuss the observations, and record results. It is seen that the table gives:

First—The average temperature for each month at seven, two, and nine o'clock; also, the monthly average.

Second—The average temperature for the year at the same hours, as well as the annual average.

Third—The highest and lowest temperature the thermometer indicated each month and for the year.

Fourth—The amount of rain in inches and hundredths for each month and for the year.

A few words of explanation about the manner in which these averages were obtained.

For each month, all the observations at seven A. M. were added and divided by the number of days on which the temperature at that hour

was noted. The same was done for all the observations at two and nine P. M. To obtain the monthly mean, these average temperatures for seven, two, and nine, were added and divided by three. For the year all the monthly means were added and divided by twelve.

The rainfall for eighteen hundred and seventy-two, 12.42 inches, must not be confounded with that of the wet season of eighteen hundred and seventy-one and eighteen hundred and seventy-two, which was about sixteen inches; nor that of eighteen hundred and seventy-two and eighteen hundred and seventy-three, which to date of writing is about ten inches. Also, our having no rain in May should be remembered as a very uncommon occurrence. Eight miles east of us, on the Merced, and forty miles southeast along the Chowchilla, more than half an inch fell that month. We generally have as much or more. But in dry Springs, like the last, it is usual for our rains to come in spots and streaks throughout the valley.

Two points of special interest, in such a table, to which we wish to call attention, are the average and range of temperature for the year. As was mentioned in a previous article, the decimals of temperature are needed only for accuracy in calculations and comparisons. For practical purposes they may be dropped, and if over one half, the preceding degrees should be called one greater.

1. The average temperature at seven A. M. is seen to be fifty-two degrees; at two P. M., seventy-three degrees; at nine P. M., fifty-seven degrees; and the annual average, sixty-one.

The latter is the most important item in the entire table, as it gives the means of correct comparison with other climates throughout the world.

By adding the averages for the months composing each season, and dividing by three, we obtain the following average temperatures: For Spring, fifty-eight, or one degree above the average at nine P. M., for the year; for Summer, seventy-six, or three degrees above the average at five P. M.; for Autumn, sixty-two, or one degree above the general average for the year; for Winter, forty-seven, or five degrees below the average at seven A. M.

2. By range of temperature is meant the difference between extremes of heat and cold. From the table, this can be obtained for each month and for the year. At present, we shall call attention only to the annual range, one hundred degrees.

The highest temperature recorded is one hundred and ten, in June and August; the lowest, ten, in December. This makes the range for the year one hundred degrees, which is exactly the same as the range of temperature found to exist in the central portion of the cotton States.

We had the coldest weather, by six degrees, last December, that has been experienced on our plains for five Winters past. The lowest previously observed was sixteen degrees, in December, eighteen hundred and sixty-nine. Last Winter we had ice an inch thick. In one instance, within the knowledge of the writer, the ice was so thick on a deep slough along the Merced River, as to enable a man of over one hundred and fifty pounds weight to walk across it without difficulty. The like has not been known in this part of California for many years. More than once the Coast Range Mountains were white with snow for several days at a time.

Even in portions of San Joaquin Valley, during one storm, a few flakes of snow fell. This is a great rarity. Occasionally we have had a small amount of fine hail. As eighteen hundred and seventy two has been rather a cool year, its average temperature of 60.69, or sixty-one degrees, will probably be proved, by future observations, to be somewhat lower than the general annual temperature of our climate. It is, however, such a medium temperature as we would reasonably expect between the mean temperature at Sacramento, to the northward, which is given as 59.90, and San Diego, toward the south, which is sixty-two degrees. By comparing our California temperatures with remote localities, in various parts of the world, we arrive at the following general results:

While the mean temperature of San Francisco is nearest to that of Bordeaux (France), Pekin (China), and New York, that of our inland valleys, and Southern California, is almost identical with that of Southern France, Central Italy, and Southern Japan. To the latter, we might also add the Holy Land and that portion of the Southern States along the Valley of the Tennessee, in North Alabama, around Huntsville and Tusculumbia, where the average annual temperature is not far from sixty-one degrees.

The following table will show more plainly wherein these climates agree, and how they differ:

TEMPERATURES OF VARIOUS LOCATIONS.

PLACES.	MEAN TEMPERATURE.			Range bet. west and south	Latitude north
	Year.	Summer.	Winter.		
San Francisco.....	55.85	50.59	58.97	8°	37° 47'
Bordeaux.....	56.48	42.08	70.88	29°	44° 50'
Pekin.....	54.86	26.42	82.58	56°	39° 54'
New York.....	53.78	29.84	79.16	49°	40° 40'
Sacramento	59.90	48.46	70.77	22°	38° 32'
San Joaquin Valley	60.69	47.46	75.75	28°	37° (about.)
Rome	60.44	45.86	75.20	29°	41° 53'
Marseilles.....	59.00	45.50	73.50	27°	43° 17'
Nagasaki	60.80	39.38	82.94	44°	32° 45'

The column for range or difference between the Summer and Winter of respective climates has been estimated in the table to show that though the annual temperature of various places may agree closely, their differences between extremes of heat and cold may vary greatly. Indeed, this is the chief mark of distinction between climates. The range between Summer and Winter averages in San Francisco is only eight degrees, which makes it as an equable climate one of the most wonderful in the world. In our inland valleys, in Bordeaux and in Rome, the range is three times as great; in Japan, five times; in New York, six times; and in Pekin, seven times as great.

The most striking agreement we find is between our temperature in San Joaquin Valley and that of Rome. Both the averages and range are almost identical. The remarkable similarity between the climates of parts of California and Italy, which has been so often asserted, is not then a dream, but is proved to mathematical certainty by the stubborn logic of facts.

For the same purpose with which the foregoing observations respecting the climate of the San Joaquin Valley have been recorded, as well as to apply a corrective to former publications, the following table of the temperature of San Diego, with the accompanying remarks, is here inserted. Representing the coast climate of the extreme southern part of the State, it is very valuable, and affords a strong contrast, not only with the interior valley climates, of which Turlock affords an example, but also with the sierra climate of the northern portion of the State. ⁽¹⁾ The observations for San Diego were taken by the Signal Service Observer of the War Department at the hours of 4.55 A. M., 1.55 P. M., and 8.55 P. M.—such being the hours corresponding with those at which the observations are taken at Washington, viz: 7.35 A. M., 4.35, and 11.35 P. M.—the difference of time between San Diego and Washington being 2 h. 40 m.

WAR DEPARTMENT, SIGNAL SERVICE, U. S. A., }
OBSERVER'S OFFICE, SAN DIEGO, (Cal.) }

TABLE OF TEMPERATURE

Showing the mean of the 4.55 A. M., 1.55 P. M., and 8.55 P. M. observations of the thermometer for each month, the monthly and yearly mean, maximum and minimum temperature, extreme range, and maximum and minimum daily range during the twelve months ending October thirty-first, eighteen hundred and seventy-two:

MONTHS.	Monthly mean of the 4:55 A. M. observations	Monthly mean of the 1:55 P. M. observations	Monthly mean of the 8:55 P. M. observations	Monthly mean of the 4:55 A. M., 1:55, and 8:55 P. M. observations.	Maximum temperature during the month.....	Minimum temperature during the month	Extreme range during the month.....	Mean daily range.....	Maximum daily range..	Minimum daily range...
1871.										
November.....	52.10	66.66	56.96	58.57	78.	41.	37.	14	25	3
December	51.70	64.51	55.16	57.12	81.	43.	38.	13	27	5
1872.										
January	46.45	60.64	53.83	53.65	73.	38.	35.	14	26	5
February	46.86	61.58	53.45	53.96	68.	43.	25.	11	18	6
March.....	50.74	63.29	50.06	54.69	71.	44.	27.	13	23	6
April.....	50.01	62.66	54.76	55.81	74.	43.	31.	13	23	3
May	56.12	66.32	58.67	60.37	83.	49.	34.	10	27	5
June	60.03	71.50	60.14	63.89	83.	55.	28.	12	23	7
July.....	63.25	73.00	64.83	67.01	75.	58.	17.	10	14	8
August.....	65.16	74.54	67.03	68.91	86.	60.	26.	9	15	6
September.....	61.13	73.00	64.40	66.17	80.	54.	26.	12	18	6
October	57.80	69.09	60.74	62.54	87.	45.	42.	12	31	7
Yearly mean...	55.11	67.23	58.35	60.22	78.25	45.5	30.5	12	22	5.5

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(1) For some account of the sierra climate, see article, "Lake Tahoe—Hot Springs."

It is shown in this table that the greatest range between the monthly means does not exceed fifteen degrees. The maximum yearly mean reached 78.25° , while the minimum yearly mean was 45.05° , making the range for the year 33.20° . We have no record of any other place except Santa Barbara, that reveals so equable a climate. During the year embraced within this record, the prevailing winds were from the northwest, and had a mean daily velocity of one hundred and fifty-eight miles, aggregating for the year fifty-seven thousand nine hundred and thirty miles. The mean daily velocity of the morning and night observations was three miles per hour, and at mid-day thirteen miles per hour. These are interesting facts, showing that the force of the wind is at no time unpleasantly strong—while it is also strongest when most needed—when the sun is crossing the meridian. The rainfall during the year was six and one half inches.

In preceding remarks it has already been stated, that the greatest mortality was not coincident with the highest temperature, but occurred two or three months after that period. It would seem, therefore, as shown by the above observations, when compared with Mortality Table No. 2, that there is a correspondence between the time of extreme daily range of the thermometer and months having greatest mortality. This is in accordance with the results of our own meteorological observations and mortality tables for twenty-two years past. In looking these over, we invariably find that, whenever any extraordinary degree of mortality prevails, it has been in the Autumnal and early Winter months. This grouping of facts points also to the accumulated effects of long continued Summer heat, impairing the vital resistance to causes of disease, and possibly, in some extent, to the effect of the withdrawal of this powerful natural stimulant. At this season the oceanic winds have died out, and there is a stagnant condition of the atmosphere. Every cesspool and sewer in our cities and towns tells its disagreeable story. In the country, the atmosphere is stagnant and full of dust, as is also the vegetation, and, although the earth is parched and arid, still the springs and rivulets begin to rise and demonstrate the increasing humidity of the air, while the nights become quite chilly. Given the knowledge of these facts, doubtless, the excessive mortality at this season may be greatly controlled or lessened; for an important step is made towards overcoming unfavorable influences, when we learn their essential nature. Indeed, it seems plain, that whenever the effects of such causes shall be fully appreciated, they may be reduced to a minimum, by avoiding draughts of air in our sleeping apartments, by proper clothing, and frequent changes corresponding with changes of temperature, and by means of properly regulated artificial heat. We can now merely glance at the questions herein involved, and not attempt to study or show how much is due to each of these several causes. Such problems can only be fully elucidated by thorough analysis of data supplied by long, continuous, and numerous statistical observations.

Of one fact there appears to be but little reason to doubt, and it is, that the geological formation of a locality has very great influence on the rate of mortality from certain causes. We know that retentive, clay subsoils, keep the air over large districts of country always more or less damp and unhealthy, while self-draining, gravelly, or sandy subsoils, produce the opposite effect. For the same reason, the configuration of the ground is also important, for a flat or concave surface will allow the accumulation of water, which can scarcely be drained off, but must escape by evaporation, and promote malarious and other diseases,

as has been ascertained to be the case in Folsom, and other places where reservoirs and ditches, holding water for mining purposes, have been introduced. Every country physician will be able to call to mind the spots where fever most frequently requires his presence, and they will usually be found to be low-lying, misty places. The character of the water supply depends, too, upon the geological formation, and its importance becomes more evident when we reflect upon the proclivity of the inhabitants of hills, or valleys between them, to cretinism and goitre, and other diseases attributable to the salts of mountain springs and streams, which vary with the substrata. The examination of this latter subject has lately received an impulse, on account of the numerous mineral springs and wells that have been discovered. Eventually, we must receive the benefit of the great increase of knowledge pertaining thereto, which will result from the additional examination it is constantly undergoing.

MINERAL WATERS AND SPRINGS.

In no other part of the world, perhaps, do mineral waters abound in greater variety than in California. They are found in almost every section of the State, at different altitudes, and every year is adding new and valuable discoveries. To the general reputation they possess, as simple *hygienic* agents, are superadded the great attendant advantages of every diversity of climate here found suited to all the varying shades and phases of tubercular and other chronic diseases, which must necessarily make our State a popular place of resort for invalids from other portions of the world. Any information, therefore, relating to them, it is believed, would be important and advantageous to people abroad and to the State at large. For these reasons I propose to appropriate a portion of this report to the consideration and description of all waters in general—the methods of forming an opinion as to their qualities, and to indicate with as much plainness as possible the nature and medicinal properties of most of the mineral waters which are now known in California. In doing so, I shall avail myself of all that has been contributed by others—especially by Professor J. D. Whitney, in the volumes of the Geological Survey, by Dr. F. W. Hatch, in the Transactions of the State Medical Society; by Dr. George C. Walton, in his recent work on the Mineral Springs of the United States; and by C. A. Menefee, in his “Sketch Book of Napa, Sonoma, Lake, and Mendocino Counties”—not forgetting the standard work of Dr. E. A. Parks, on “Practical Hygiene.”

The rain falling on the surface of the earth, partly evaporates, partly runs off, and partly sinks in. The relative amounts vary with configuration and density of the ground, and with the circumstances impeding or favoring evaporation, such as temperature, movement of the air, etc. Penetrating into the ground, the water absorbs a large proportion of carbonic acid from the air in the interstices of the soil, which is much richer (two hundred and fifty times) in this gas than the air above. It then passes more or less deeply into the earth, and dissolves everything it meets with, which can be taken up in the time, at the temperature, and by the aid of carbonic acid. In some sandy soils there is a deficiency of carbonic acid; and then the water is also wanting in this gas, and is not fresh and sparkling. Every fissure of the earth is permeated by this solvent. It collects in the depths of our mines, or drips from the roofs of caves and railroad tunnels through solid rocks so dense as to turn the

hardest steel. When water has thus passed through thousands of feet of dense rock, and in the passage occupied years or centuries, it is not surprising that it frequently contains a large amount of ingredients. And when a stream of water, thus impregnated, becomes imprisoned between almost impermeable strata, it flows till a fissure in the overlying strata is encountered, when, by hydrostatic pressure, it is forced up and bursts from the earth as a mineral spring, of which the Tuscan Springs, hereinafter described, afford an example.

The chemical changes and decompositions which occur in the earth by the action of carbonic acid, and which are probably influenced by diffusion and pressure as well as by temperature, are extremely curious, but cannot be entered upon here. The most common and simple are the solution of carbonate of lime, and the decomposition of silicate of lime and soda by carbonic acid, or alkaline carbonates. The general result of solution and decomposition is that the water of springs often contains a great number of constituents—some in very small, others in so great an amount that they can only be used medicinally. The temperature of the water also varies, and is chiefly regulated by the depth. The temperature of shallow springs alters with the season; that of deeper springs is often that of the yearly mean. In very deep springs, as in some artesian wells, the temperature steadily increases with the descent—after a certain point below the surface of the earth—varying according to the zone and constitution of the soil. At Paris this point is thirty feet, and the rate of increase is 1° Fahrenheit, for every fifty or fifty-five feet below. The artesian well near Minden, in Prussia, is two thousand and ninety-four feet deep, and the temperature 89° ; that of Mondorf, in Luxemburg, two thousand two hundred and seventy-eight feet, and the temperature 108.5° . In the United States, the artesian well at Louisville, Kentucky, is two thousand and eighty-six feet deep, and the temperature of the water 86.5° ; that of Charleston, S. C., is one thousand two hundred and fifty feet deep, and the temperature of the water is 87° . In Stockton, California, the artesian well is one thousand one hundred and three feet, and the temperature of the water, on reaching the reservoir, is 78° Fahrenheit.

All waters possessing an unvarying temperature of eighty-five degrees Fahrenheit, or above, are termed *thermal*. This term is used in the sense of heat as indicated by the sensations of the body, although, geologically speaking, all springs are considered warm, or thermal, the temperature of which exceeds, however little, the mean annual temperature of the place at which they rise. Accordingly, a spring of a certain degree would be called warm in Iceland, and cold at the equator. Waters of eighty-five degrees Fahrenheit will convey a sensation of warmth to the hand of most persons on first immersion, though if the entire body were placed in the water, a feeling of chilliness might be experienced. Waters of from seventy degrees to eighty five degrees Fahrenheit, may be termed temperate; from eighty-five degrees to ninety-two degrees, they are tepid; from ninety-two degrees to ninety-eight degrees, they are warm, and from ninety-eight degrees upward, they are hot—all, except the first, included under the term thermal. Thermal waters are chiefly used for bathing, and in this their efficacy mainly consists. This subject will again be adverted to in speaking of the effects of using different kinds of tepid, warm, and hot waters.

It will be seen from the figures given above, that the temperature of water flowing from great depths is uniformly elevated. The temperature, however, is not always in proportion to the depth. This arises

from the fact that water, flowing from the bottom of a well, may intermingle with colder water from the strata above, producing a lower temperature than would be expected; or the vein of water supplying the well may arise from a much greater depth, giving an unusually high temperature, as is probably the case in the Charleston well. Having thus seen the origin of springs from meteoric water, it is unnecessary to consider the variations in the temperature of cold springs, which depend on the source of the water, whether from melting ice or snow, whether flowing superficially through alluvial earth or deeply through ledges of limestone, or masses of granite.

Mineral waters differ in so many respects from ordinary water, that in order to ascertain the characteristics they are generally submitted to physical, microscopic, and chemical examination. Physical examination, although not capable of furnishing positive results, is useful in suggesting whether the water under consideration is worthy of more thorough examination, but at best, affords very limited information. The following approved plans of procedure are here inserted, in the hope that the observative and reflective faculties of our reason may be awakened to the full import of the whole subject, and thus lead to the discovery of new and valuable mineral springs, and, what is better, to their exhaustive analytical investigation.

Physical examination.—Shake up the water; place some of it in a long glass, and allow it to stand for twenty-four hours to collect the sediment. Then note the following points:

Color and transparency.—Turbidity, which may be permanent, is given by finely divided clay, vegetable matter, chalk, and ferruginous sand. Color is given especially by decomposing vegetation, peat, and animal matters. The depth of the color is no indication of the amount. The water from farm yards is often highly colored, but sometimes contains but little organic matter, while, on the other hand, a large quantity of dissolved organic matter may exist in a perfectly colorless water. A red color is frequently seen in chalybeate waters, and results from the precipitation of the red oxide of iron. In some instances it is due to microscopic algæ.

Taste.—Although naturally much relied on, and useful if large quantities of foreign substances are present, taste is not a good guide. Iron is the only substance in small quantity detected with great certainty by taste. That a water is tasteless is, therefore, evidence only of freedom from very large impregnation with salts and organic matter. When the water is warmed to eighty-six to ninety-five degrees Fahr., any taste is more perceptible than when the water is cold. A paper in the British Army Medical Report for eighteen hundred and sixty-two states very clearly the limits of taste. They are as follows:

Chloride of sodium is detected when it reaches.....	75 grains per gallon.
Chloride of potassium is detected when it reaches.....	20 grains per gallon.
Chloride of magnesium is detected when it reaches.....	50 to 55 grains per gallon.
Sulphate of lime is detected when it reaches.....	25 to 30 grains per gallon.
Carbonate of lime is detected when it reaches.....	10 to 12 grains per gallon.
Nitrate of lime is detected when it reaches.....	15 to 20 grains per gallon.
Carbonate of soda is detected when it reaches.....	60 to 65 grains per gallon.
Iron is detected when it reaches.....	2 grains per gallon.

Smell detects sulphuretted hydrogen in very small quantities. Calcareous waters, containing a large proportion of sulphate of lime, frequently disengage sulphuretted hydrogen by decomposition of the sulphate in presence of organic compounds. Other waters emit odors depending

on the soil through which they have passed. Suspended or dissolved decomposing animal matters in large quantity will sometimes give a foetid smell.

Touch.—The only evidence derivable from this sense is in washing—hard waters, containing the earthy salts, forming an imperfect lather with soap. When the feeling which water imparts in contact with the skin, is peculiarly bland and soft, it is referred to texture; a word intended to represent the sensation of harshness or smoothness. Certain waters possess a smooth texture in a remarkable degree. While immersed in them, the entire surface of the body seems as though covered with a bland oil; the fingers, when rubbed together, are unctuous, as though they had been anointed, and this peculiar sensation of smoothness frequently remains for some time after leaving the bath. Some of the warm waters at Calistoga are notably possessed of this quality. The cause of this unctuousity has been attributed to the presence of silicates in large proportion, to the monosulphuret of sodium, and to organic matter. Some writers suppose it arises from a combination between the acid secretions of the skin and the bases of the water, forming a kind of soap.

Microscopic examination.—In the physical examination of water, it has been seen that color, taste, odor, and touch, are points of some importance; and as these frequently seem to depend on the germination of organic matter, the presence of certain compounds of iron and other ingredients, the microscope may aid in the detection. This means, however, is generally resorted to for the examination of potable rather than for mineral water. In having recourse to the microscope, the water should be allowed to stand twenty-four hours, and then a drop of the sediment may be examined. The chief appearances are: sand, easily known by its angles, and its being unaffected by any reagent; clay and marl, amorphous non-angular particles, not acted on by reagents; chalk, round and slightly angular particles, at once dissolved by acids. If the water is very impure, evidence of animal or vegetable life, or their debris, will be detected under the form of parts of their several structures, and different species of infusoria, etc., (paramecia, diatomacea, entomostraca, etc.) may be seen. If, under these circumstances, no evidence is furnished, the water in a flask, having the neck plugged with cotton wool, to exclude atmospheric contamination, should be freely exposed to light for a day or two, for the development of all possible germs. These will be detected by the microscope, or green (confervoid) matter show itself in quantity proportional to the impurity. This mode of investigation is of the highest value for sanitary purposes; for by it we are enabled readily to ascertain whether active matter is present, on which, in a great measure, the injurious or harmless character of the impurity in water depends.

Chemical examination.—The information then that is gained by the mere physical examination of water, is, alone, neither of a very exact nor accurate character; yet it is most essential that we should be in possession of means to enable us to judge of the applicability of mineral waters to the treatment of disease. Such means are well known to chemists, and the estimation of the exact qualities and quantities of the constituents is a difficult problem of science, which can only be undertaken by the experienced analyst. All mineral waters, therefore, before being recommended therapeutically, should be submitted to chemical examination; for if we are ever thoroughly to comprehend their action in disease, the discovery lies in this direction. Some writers on mineral

waters almost entirely ignore their chemical constituents, finding in the fact that, when analyzed, we cannot explain all their effects. Fortunately, those who would thus place a seal on investigation are but a small minority. Although it will readily be conceded that an analysis, however accurate, in the present state of science, will not always indicate the diseases to which the water is applicable, still, in the majority of instances, it forms an exceedingly valuable guide—one which cannot be overlooked.

"It is nevertheless true," says Dr. Walton, from whose work we have freely drawn, "that the combinations of the elements, as shown in analyses, are altogether empirical. The chemist first determines the bases—the amount of magnesia, soda, potassa, lime, alumina; then the acids and gases—the carbonic acid, sulphuric acid, silicic acid, chlorine, iodine; and after each of these elements is separated, he combines them according to approved formulæ, giving the result in so many grains of carbonate of magnesia, sulphate of potassa, chloride of sodium, iodide of sodium, etc. Yet although the chemist may have performed his work most faithfully, still there are unknown quantities that elude his search, appearing in the analysis under the designations loss, organic matter, or extractive matter. These facts, however, only show that chemical science is not perfect."

I will now proceed, from north to south, to give a special description of each particular mineral spring of which we have obtained any accurate knowledge, detailing all the principal facts respecting location, access, and medicinal properties; also the analyses made by chemists, and others of established reputation, and which are probably not far from being correct.

CASTLE ROCK SODA SPRINGS.

Location.—Near the boundary line between Siskiyou and Shasta Counties; about three hundred miles from Sacramento. The Castle Range, which terminates on the Sacramento River in a conspicuous peak called Castle Rock, is a spur of the Trinity Mountains, running nearly east from the main range. In the valley, on the north side of this range, there are two groups of mineral springs, one of which is on the east side of the Sacramento, nearly opposite the mouth of Castle Creek; the other is three and a half miles further up, and eight miles from Strawberry Flat, at the base of Mount Shasta. The first is called "Lower Soda," and the other "Soda Springs." The latter are in the cañon of the Sacramento, at an elevation of two thousand three hundred and sixty-three feet. Latitude, forty-one degrees and ten minutes.

Access.—From Strawberry Flat to Soda Springs the distance is eight miles. Lava covers the surface, forming a gradual slope, heavily timbered.

Analysis.—The water is a chalybeate, there being an extensive ferruginous deposit around the spring; it is also highly impregnated with carbonic acid, sparkling like soda water, whence the name, which is one usually given in California to springs giving off carbonic acid, and not to those containing carbonate of soda. The temperature of the water was fifty-two degrees, in September, eighteen hundred and sixty-two. The waters have not been quantitatively analyzed.

Properties.—These waters have a high reputation for their tonic effect, and are reported to have a specific action on the kidneys.

Remarks.—From a hill a little to the east of the road, about two miles south of the lower Soda Springs, one of the finest views of Mount Shasta may be obtained. The time will undoubtedly come, when the travel to this beautiful spot will be sufficient to justify more ample preparations than have yet been made to accommodate, at Strawberry Flat, those who seek to climb Mount Shasta. To one possessed of sound lungs and accustomed to mountain traveling, there is no difficulty in the ascent, which can be made in eight hours, except such as arises from the system having to adapt itself so suddenly to the rarified condition of the air at an elevation of over fourteen thousand feet.

TUSCAN OR LICK SPRINGS.

Location.—Tehama County, nine miles from Red Bluff, which is one hundred and forty-five miles, *legal distance*, from Sacramento; latitude, $40^{\circ} 12'$.

Access.—The springs are situated in the crater of an extinct volcano, in the foothills of the Sierra Nevada, and are easy of access by visitors. Altitude, six hundred and seventeen feet.

Analysis.—The waters of these springs are all thermals, the temperature being 76° . They contain common salt, carbonate of soda, salts of lime, a trace of iron, and evolve some sulphuretted hydrogen and a large quantity of carburetted hydrogen, which is collected, partly purified, and burned for heating the waters under the steam baths. No quantitative analysis has been made. The microscope reveals diatomaceæ in large numbers, with considerable vegetable and animal life of the most minute forms. The vegetable organizations are principally oscillatoriæ.

Properties.—The waters of these springs, of which there are several, have much repute in the treatment of intractable rheumatism, and in syphilitic and cutaneous affections. Doubtless much of their virtue may be due to the uniform temperature of the baths for which they are used.

Remarks.—Tuscan, formerly called Lick, Springs, afford, as has already been remarked, an example of ascending springs, the water issuing from an interval between strata that have been upheaved by volcanic action. The annexed section will serve to give an idea of the position of the strata on either side of the springs.



SECTION AT TUSCAN SPRINGS.

a a, basaltic lava; *b b*, volcanic ash and scoriæ; *c c*, conglomerate; *d d*, cretaceous sandstone; *s*, springs.

According to Professor Whitney, from whose geological report this diagram is taken, the cretaceous strata have been bent up into a rather sharp arch, or anticlinal fold, and the volcanic rocks have been denuded in the cañon, so as to expose the sedimentary beds over an area of about one half a mile from northwest to southeast, and a mile in the

opposite direction. The springs are nearly in the centre of this area, the strata dipping away from them, in every direction, at an angle of from 35° to 45° .

At the springs the strata are much bent and twisted, and the cracks, which have been formed while these disturbances were going on, have become filled with carbonate of lime.

One of these springs, at intervals of about one lunation, as I am credibly informed, changes its color from a greenish to a milk-white color. This is probably due to an intermittent spring, which communicates with this subterraneously, impregnating the water with carbonate of lime, and slightly changing it to a sweetish taste.

SUMMIT VALLEY SODA SPRINGS.

Location.—In a valley at the base of the surrounding Sierras, twelve miles from the Summit, where it is crossed by the railroad, and about ninety miles from Sacramento. Latitude, $39^{\circ} 11'$; altitude, six thousand and nine feet, and one thousand feet below the Summit.

Access.—The Central Pacific Railroad stops daily at Summit Valley Station, where there is a good hotel, and whence conveyances can readily be had to the springs.

Analysis.—It is stated that the waters contain a larger amount of carbonic acid than is shown by the following results from a wine gallon, and which escaped in the bottling and transportation:

	Grains.
Carbonic acid, 186.35 cubic inches.....	43.20
Bicarbonate of lime.....	4.20
Carbonate of magnesia.....	9.50
Carbonate of soda.....	26.22
Chloride of sodium.....	1.75
Oxide of iron.....	2.06
Silica.....	1.75
Alumina.....	
Potassa—trace.....	
Total.....	88.68

Properties.—Dr. Hatch, who gives the above analysis, says: "This might, according to the arrangement of some authorities, be called an 'earthy-saline' water, although the large amount of carbonic acid it contains allies it to the *carbonated* waters. It should, therefore, if we can judge from its constituents and their known properties, possess in a high degree the remedial virtues which are supposed to pertain to these classes. Thus the carbonic acid should give it a place in torpid digestion and certain dyspeptic troubles, while the association of its gaseous element with the alkalies and earths, with chloride of sodium and iron, should make it efficacious in diseases due to a scrofulous diathesis, in rachitis, in chronic affections of the mucous membranes, especially of the intestinal canal, in rheumatism, and in cases requiring its diuretic action. In fact, in some of these, more particularly in chronic catarrhal disorders and in rheumatism, it has been used with marked benefit. Probably, also, taken in connection with the climate of the locality, its

elevation, its invigorating influence, it would prove effectual as a tonic and restorative in some nervous disorders, in anæmia and chlorosis, in atony of the mucous membranes, in debility, and in convalescence from acute disease."

Remarks.—Although I am not able to give the exact temperature of the water, still it may be classed among cold springs, as its taste is most agreeable. The springs adjoin the head waters and snowy waterfalls of the North Fork of the American River, in one of the most wild and beautiful locations in the whole Sierra Nevada range. Everywhere there is grandeur of mountains and forests, and beauty and variety of river foliage, and flowers. The bracing air and exhilarating scenery, which may here be enjoyed, are remarkably efficacious in promoting recovery from debilitating diseases; and I regard the springs, with their surroundings, as perfect sanitarium, from some experience of their powers in restoring health to dyspeptic and cachectic patients, whom I have urged to try them for some weeks. We know that the breathing capacity of those dwelling at great altitudes—for instance, the Swiss Mountains—is most enormous, and this may account for the preventive power of such residence over consumption. Greater efforts are required to inhale enough oxygen in such a rare atmosphere; the chest becomes enlarged and the lungs expanded—even the upper parts of them, which are especially prone to tubercular disease from being disused, now dilating. Hence, circulation, and all the nutritive functions to which it ministers, become more active. Long continued residence at great heights is, however, said to be injurious to those born in lower regions. Thus the Monks of St. Bernard cannot remain at their hospice, which is seven thousand six hundred and sixty-eight feet above sea level, for more than a few years.

LAKE TAHOE HOT SPRINGS.

Location.—On the borders of Lake Tahoe. The lake is on the eastern boundary of California, and lies partly in Placer and partly in El Dorado County.

Access.—The Central Pacific Railroad stops daily at Truckee, one hundred and twenty miles from Sacramento, where conveyances can be had to all points of the lake (which is about fourteen miles distant), at the Tahoe House. A steamer is plying constantly between this place to the springs and to Glenbrook House opposite.

Analysis.—None has yet been made of these waters. They are, however, of the sulphur class, and range in temperature from ninety-eight to one hundred and sixteen degrees, Fahrenheit.

Properties.—They have acquired considerable reputation for the treatment of rheumatism, cutaneous diseases, contractions of joints, syphilis, etc.

Remarks.—There are numerous other mineral springs in this section of the Sierras, and also mountain lakes, but as their waters have not been analyzed, it is unnecessary now to mention them. Lake Bigler, however, now called Lake Tahoe, cannot be passed by without remark, for a

geological interest is fastened upon it. (1) There we see what so many other of the great valleys of the Sierra Nevadas once were.

Situated in a valley at the eastern base of the central ridge of the Sierra Nevada, and at an elevation of some six thousand feet above the level of the sea, it is surrounded by mountains, which rise from one to three, and perhaps, in some cases, four thousand feet above the surface of its water. These mountains are principally composed of friable white granite, water-worn to that degree, that, although they are rough and often covered with rocks and boulders, yet show no cliffs nor precipices.

Their bases of granite-sand rise in majestic curves from the plain of the valley to their steeper flanks. Many of the smaller hills are but high heaps of boulders; the stony skeletons decaying *in situ* half buried in their granite *debris*. The dimensions of the lake—according to Goddard, who explored its southern shores during the State Wagon Road

(1) Since the above was written, and while our report is being printed, we are pleased to learn another fact, which adds to the interest of this locality, and it is that steps have already been taken by Mr. James Lick, of San Francisco, to build and equip a complete observatory in this region. Observations, conducted by Professor George Davidson, of the United States Coast Survey, at Summit Station, on the line of the Central Pacific Railroad, which is about seven thousand two hundred feet above the sea, prove it to be an excellent place for astronomical observations. Such is the transparency of our elevated mountain atmosphere, that peaks, one hundred and fifty miles distant, may be seen as clearly as objects seen ordinarily fifty miles distant; and, what is still more important for astronomical purposes, no clouds disturb the serenity of the firmament, and no changes of temperature, sufficient to distract the emanations of the stars, occur for at least six months in the year. Let us then hope that, as a public benefactor has been found to establish an observatory in a far more propitious locality than the south of Africa, so another Herschel may rise up among us, here to immortalize his own name and add to the scientific glory of California.

The meteorological observations kept at Summit from December seventh, eighteen hundred and sixty-six, to the end of November, eighteen hundred and sixty-seven, show the following results:

MONTHS.	Clear days and nights.	Cloudy days and nights.
December, 1866.....	6	19
January, 1867.....	19	12
February, 1867.....	13	15
March, 1867.....	21	10
April, 1867.....	23	7
May, 1867.....	29	2
June, 1867.....	30	.....
July, 1867.....	31	.....
August, 1867.....	30	1
September, 1867.....	27	4
October, 1867.....	27	4
November, 1867.....	15	15
358 days.....	270	88

In February, one storm lasted thirteen days, and ten feet of snow fell. The total snow fall for the year was forty-five feet, and during February, March, and April, the average depth was about thirteen feet. The hills were free from snow about May first, but ten feet lay in some of the valleys. Weather frosty early in May, but flowers were in bloom in June. The winds were mostly east and west, the latter largely predominating. The greatest range of barometer was one inch during the year. Weather in Summer is very pleasant and nights cool. The clear cool nights of Winter were reported as marvelously clear.

and Boundary Survey of eighteen hundred and fifty-five, and determined its extreme southern latitude at $38^{\circ} 57'$, and of whose description we here avail ourselves—can hardly exceed twenty miles in length by ten in breadth.

The shores, at least of its southern coast, are entirely formed of granite-sand, while a dense pine forest extends from the water's edge to the summits of the surrounding mountains, except in some points, where a peak of more than ordinary elevation rears its bald head above the waving forest. An extensive swampy flat lies on its southern shore, through which the upper Truckee slowly meanders, gathering up in its tortuous course all the streams which flow from the south or southeast. This little stream, though but of yesterday, geologically speaking, has yet carried down its sandy deposits through ages sufficient to form the five miles of valley flats, from the foot of the Johnson Pass to the present margin of the lake, and still the work progresses. The shallows at the mouth of the river are stretching across towards the first point on the eastern slope of the lake, and at the same time the water level of the lake is evidently subsiding.

The deep blue color of the water, which is almost perfectly pure, ⁽¹⁾ indicates considerable depth. It is well stocked with salmon, trout, and other fresh water fish. A well ordered sanitarium on the shores of this lake, with all the improved adaptations and appliances which modern hygienic science exacts, would prove a marvellous boon to both patients and doctors, especially during the Summer months.

The following means of the thermometer for the coldest and hottest months at different altitudes, kindly furnished by Col. Williamson, U. S.

(1) ANALYSIS OF THE WATER OF LAKE TAHOE.

To Col. Von Schmidt we are indebted for the following copy of a letter from Prof. Whitney, showing the purity of the water of Lake Tahoe:

CAMBRIDGE, (Mass.,) September 16th, 1871.

MY DEAR SIR: Mr. Hanks determined, under my direction, the amount of solid matter in a gallon of Tahoe water. This is the important element in estimating the value of water, and the only one of much consequence for ordinary water.

The Tahoe water contains exactly three grains of solid matter to the gallon.

Below is a comparative table of the analyses of different waters used for the principal cities in the east:

	Grains.
Lake Cochituate, Boston.....	3.37
Mill River, New Haven.....	4.00
Jamaica Pond, Brookline and Boston.....	4.40
Lake Ontario, Rochester.....	4.16
Hudson River, Albany.....	7.24
Schuylkill River, Philadelphia.....	5.50
Detroit River, Detroit.....	5.72
Ohio River, Cincinnati.....	6.74
Lake Michigan Chicago.....	8.01
Croton River, New York City.....	10.60

The result indicates that the Tahoe water is purer than any used for distribution to cities anywhere in the United States.

I have an impression that the purest water ever analyzed in New England was that of the Pawtuxet River, in R. I., which gave about two and one half grains to the gallon, but I cannot now find the document. Will hunt it up.

Yours truly,

J. D. WHITNEY.

A., and the Engineer Department of the Central Pacific Railroad, afford some positive knowledge of the climate of the Sierras :

Stations.	Altitude.	Latitude.	July.	Jan'y	Range.	Authorities.
Aurora.....	7,468 ft.	38° 12'	68°	26°	42°	Col. Williamson.
Hope Valley.....	7,088 ft.	.....	55°	26°	29°	Col. Williamson.
Summit.....	7,200 ft.	39° 11'	77° Aug.	28°	49°	Central Pacific Railroad.
Truckee.....	5,866 ft.	39° 12'	53°	23°	30°	Central Pacific Railroad.
Strawberry Valley	5,710 ft.	.....	60°	36°	24°	Col. Williamson.
Fort Jones..... }	2,578 ft.	41° 36'	71°	31°	40°	Army Meteorological Register.

Aurora, the southernmost of these stations, is situated upon a beautiful flat formed by the conjunction of two ravines, which come down from between Silver, Middle, and Last Chance hills. Fort Jones, the northernmost station, lies in Scott's Valley, on a small tributary of the Klamath River, nearly one hundred miles from the head of the Sacramento Valley, and an equal distance in a direct line from the Pacific coast.

In the arctic regions, including Greenland, Iceland, and Alaska, consumption is very rare; so much so, that some writers even deny its presence altogether in the extreme North. It is also almost as well established, for reasons given a few pages previously, that this disease is equally as rare at great altitudes, where it is dry, even although it be very cold. Thus the curative influence of the climate of the valleys of the Peruvian Andes has been well proved in the military hospital established in the Valley of Junja, upwards of ten thousand feet above the level of the sea. The climate of our mountain regions having been shown, in respect of temperature, to be peculiarly favorable for physical comfort, especially during the Summer season, when the atmosphere is dry and invigorating, we may confidently hope for benefit to those predisposed to, or already presenting the early signs of consumption, by resorting to our mountain watering places, where the additional good effects of judiciously employed and properly selected waters may be derived.

CALIFORNIA SELTZER SPRINGS.

Location.—In the Coast Mountains, in Mendocino County, near the post town Sanel.

Access.—From San Francisco via steamer to Donahue, thence by California and Northern Pacific Railroad to Sanel.

Analysis.—According to F. A. Bauer, one pint contains:

	Grains.
Carbonate of soda	4.61
Carbonate of magnesia.....	5.65
Carbonate of lime.....	8.80
Carbonate of iron.....	trace.
Chloride of sodium.....	2.15
Sillicic acid.....	trace.
Total solids.....	21.21
Gas—Carbonic acid, abundant (1871).	

Properties.—According to the analysis, this is a very fine alkaline water, and we should expect it to act favorably in cases of dyspepsia and diseases of the liver and bladder, in which alkaline waters are indicated.

Remarks.—There are a great many other springs in Mendocino County, which remain to be properly investigated. Near Ukiah is one said to be peculiarly efficacious in skin diseases and rheumatic complications, and to have materially benefited several cases of asthma. On the head waters of Big River, fifteen miles from Ukiah, are several hot sulphur springs. At either end of Potter Valley, are soda and sulphur springs, each possessing their properties.

Mendocino County offers peculiar inducements to tourists and pleasure seekers. The Eel River section is one of the many fine fishing and hunting grounds to be found in this region of the State. The scenery of this county is unrivaled for beauty and grandeur, and especially is this true of the coast region.

HIGHLAND MINERAL SPRINGS.

(Formerly Caldwell's, now Shartzer's.)

Location.—Napa County, seven miles from Lakeport, and four miles from Kelseyville.

Access.—Daily communication from San Francisco, via Cloverdale or Calistoga routes.

Analysis.—An incomplete examination of these waters show them to be impregnated with sulphate and carbonate of magnesia, chloride of sodium, manganese, potassium, silica, and calcium; also, a trace of sulphur. They are, likewise, highly charged with carbonic acid gas.

Properties.—These springs have been known for several years as a resort for invalids afflicted with rheumatism and various chronic diseases. The baths are very invigorating, the water from some of the springs being warm enough just as it flows from the springs.

Remarks.—Menefee, to whose interesting "Sketch Book" I am indebted for much information respecting the springs of this region, says that the waters of this, as well as of Seigler's Springs, about six miles westerly from Lower Lake, "have effected many remarkable cures," and that these springs have been known for several years as a neighborhood resort for invalids.

HOT BORATE SPRINGS, BORAX LAKE.

Location.—Lake County; has the most natural boundaries of any other one in the State. The whole of it lies between two main branches of the Coast Range Mountains. Both these ranges are formed of narrow ridges of broken mountains, and from the beauty and grandeur of the scenery this region has been justly named the Switzerland of America. Lying about the center of this county is Clear Lake, at an elevation of about one thousand five hundred feet above the level of the sea, and thirty-five miles distant from the Pacific Ocean. A short distance east of the narrow arm of this lake, and separated from it by a low ridge, is Borax Lake. About a mile beyond the ridge bordering Borax Lake, are the sulphur banks, a feature of great interest, as showing the geological formation of this region, where solfatara is still going on. The

banks cover an area of about forty thousand square yards, and from beneath them appear to flow the hot borate springs.

Access.—The springs are in the neighborhood of Lower Lake, the principal town in the county and neighborhood, and are reached from San Francisco, one hundred and four miles distant, via the Napa Valley Railroad, and stage from Calistoga, thirty miles distant.

Analysis yields the following results in each gallon of water:

	Grains.
Chloride of potassium.....	trace.
Chloride of sodium.....	84.62
Iodide of magnesium.....	.09
Bromide of magnesium.....	trace.
Bicarbonate of soda.....	76.96
Bicarbonate of ammonia.....	107.76
Biborate of soda.....	103.29
Sulphate of lime.....	trace.
Alumina.....	1.26
Carbonic acid (free).....	36.37
Silicic acid.....	8.23
Matters volatile at a red heat.....	65.77
Total.....	484.35

Properties.—Borate of soda, or borax, one of the principal constituents of the waters in this locality, is an alkaline salt, used externally as a cosmetic, and internally as a mild refrigerant and diuretic. It is also valuable in certain obstructions of the female functions, but must be used with care for such purpose. It is also one of the best remedies that can be used in nephritic and calculous complaints dependent on an excess of uric acid. These springs must, therefore, prove beneficial in the class of disorders just mentioned, and also become valuable adjuncts when used as baths in certain scaly, cutaneous eruptions.

Remarks.—Our State Geologist, referring to the above analysis, says: "In this table, the constituents are necessarily calculated as anhydrous salts; the biborate of soda, however, contains about forty-seven per cent of water when crystalized, and the 103.29 grains given above correspond to 195.35 of crystalized borax. The most extraordinary feature in the above analysis is the very large amount of ammoniacal salts shown to be present in this water, in this respect exceeding any natural spring water which has ever been analyzed. Mr. Moore (who made the analysis) thinks that, as in the case of the boracic acid waters of Tuscany, this ammoniacal salt may be separated and made available for economical purposes." One of the most wonderful features connected with the sulphur banks is a large spring, boiling and bubbling up as a mighty cauldron, but which, in the immediate vicinity of the banks and the hot borate springs, is almost as cold as ice.

ADAM'S SPRINGS.

Location.—In the mountains of Lake County, about eight miles south of Clear Lake, and four miles from Cobb Valley, between the Geysers and Seigler's.

Access.—From Calistoga or Lower Lake.

Analysis.—Each gallon of water contains the following:

	Grains.
Carbonate of lime.....	28.714
Carbonate of magnesia.....	99.022
Carbonate of soda.....	57.036
Carbonate of iron.....	.517
Chloride of sodium.....	4.112
Silica.....	7.218
Organic matter.....	2.811
Salt of potash—traces.....	
Nitric acid—traces.....	
Total.....	199.430

Each gallon also contains three hundred and four cubic inches of free carbonic acid gas. Dr. Hatch, who gives the above analysis, says the water of this spring has afforded marked relief in rheumatism, and is much esteemed by those who have used it for the correction of certain diseases of the stomach associated with deficient secretion of bile. It is also thought by many who have visited it to be useful in certain diseases of the female organs.

HARBIN SPRINGS.

Location.—Four miles west of Middletown, which is on the main county road to Clear Lake and Lakeport, and twenty miles north of Calistoga, in a wild and picturesque cañon of the Coast Range Mountains.

Access.—A regular line of stages runs between Calistoga and these springs.

Analysis.—The main spring discharges about four hundred and fifty gallons of water per hour. Its temperature ranges from 118 to 120°. It is highly charged with sulphur, soda, iron, and magnesia—the sulphur predominating. Another of the numerous springs has a temperature of 108°, and contains more iron and less sulphur. The waters have not been quantitatively analysed.

Properties.—These, like all thermal springs, are employed chiefly for baths, and, for this purpose, thirteen bath-rooms are here constructed—two of which are plunge baths. The water feels as soft and agreeable to the skin as if it were oil. It stimulates the skin and digestive organs, and soothes the nervous system.

Remarks.—In addition to the mineral waters, there are several springs of pure, potable water, which is cold at all seasons.

BARTLETT SPRINGS.

Situation.—East of Clear Lake, and about twenty-five miles from Lower Lake, in Lake County.

Access.—The same as the hot borate springs, just described.

Analysis.—Only a partial analysis of the waters have been made. They are known to contain sulphur, magnesia, manganese, potassium, and calcium.

Remarks.—There are other springs in the same locality—one, almost ice cold, and highly charged with carbonic acid; also, about one and a half miles westerly, is one called the Soap Spring. It is about twenty-five feet long, twelve feet wide, and six feet deep, with a natural wall of boulders on all sides of it, forming a splendid plunge or swimming bath. Its waters contain borax, soda, salt, and sulphur. It is tepid, and of a very pleasant temperature for bathing. A few feet from it is another spring, containing iron, soda, and chloride of sodium; temperature, 85°. One and a quarter miles in a northerly direction from the Bartlett is a very remarkable spring, known as the Gas Spring. The strong gas issuing from it is the same as met with at the Sulphur Banks, above described. No water flows from it, and the quantity of water never increases or diminishes, but it is continuously in motion, as if it were boiling. The sound, as of escaping steam, may be heard for a considerable distance from the spring. The water is intensely cold.

THE GEYSERS.

Location.—There are two localities of hot springs, the Geysers and the Little Geysers—both situated in a deep gorge in Sonoma County, known as Pluton Cañon, though really one main branch of Sulphur Creek, that empties into Russian River near Cloverdale. The Geysers are about seventeen thousand feet above the sea, and are surrounded by lofty and rugged mountains. Along the cañon, for a distance of a quarter of a mile or more, and covering an area of several acres, numerous hot springs and steam, to the number of at least three hundred, occur. The temperature of the waters vary from 200° to 210° Fahrenheit. About four miles up Pluton Cañon, are the Little Geysers. They consist of a number of hot springs along a hillside. Many of the effects seen at the Geysers may here be witnessed; but the water is comparatively pure, and stands at a temperature of 190° to 200°. Some low forms of growth, such as algæ and confervæ, grow on the surface of the water.

Access.—There are two roads leading to the Geysers; one from Healdsburg, by way of Foss Station and the Hog's Back, called the old road; the other, from Calistoga, Napa County, by way of Knight's Valley, known as the new road. The scenery from the road from Foss Station up the mountains is gorgeous and picturesque. Pines, oaks, madronas, and other trees, shade the road, while there is a thick undergrowth of buckeye, manzanita, and other brush. The road winds around mountains and deep cañons, till the highest point, called the Summit, is reached, three thousand two hundred feet above the sea. Before reaching the Summit, the road winds around Sulphur Peak, which is, next to Mt. St. Helena, the highest peak in this part of the Coast Range. It is one of the stations of the primary triangulation of the Coast Survey, and affords a view of great extent and beauty.

Analysis.—The waters hold in solution a great variety of salts. The sulphates of iron, lime, and magnesia, predominate. Sulphate of magnesia, tartaric acid, alum, magnesia, and sulphur, are found in great quantities. These salts give the rocks a peculiarly vivid coloration.

Properties.—All thermal springs of the sulphur class are of decided efficacy in rheumatism and diseases of the skin, and these waters are of much service in the treatment of such diseases. Doubtless the alum springs of this locality are beneficial in atomic diseases, attended with profuse discharges and hemorrhages. The steam or vapor baths, which

have been constructed by building sheds over some of the springs, may be made available as adjurants. The principal steam bath is in the bottom of Pluton Cañon, near a fresh water brook; so that after the warm douche and the vapor bath, the bather goes a few steps, and finds a plunge bath of the most sparkling mountain water in an artificial reservoir, so arranged that the contents are constantly renewed.

Remarks.—The name was given to these springs from their supposed resemblance to the Geysers of Iceland, though it would require a very vivid imagination to see any marked resemblance. The Geyser Cañon is half a mile long; the bottom, from one or two rods in width, and the banks shoot up one thousand four hundred feet at an angle of 45° . Here and there, at wide intervals, are small jets of steam from springs, which are bubbling and hissing in all directions. One spring, called the "Devil's Inkstand," contains dark precipitate of sulphuret of iron, that is used to write the registries at the hotel. From one of the large vents in the ground, which is about two feet in diameter, the steam escapes with a loud noise—not unlike that from the escape pipe from an engine—and hence is called the Steamboat Geyser. The steam rises several hundred feet, and is ejected in regular pulsations, as by an engine at work. On the same side of this ravine is the "Witches Cauldron," an unfathomable pool, near seven feet in diameter, filled with a blackish, viscid fluid; of 200° temperature; is continually boiling, and sending forth mephitic vapors. Twelve feet away is the "Intermittent Scalding Spring," which sends forth jets of water of a temperature of 175° . They sometimes rise to a height of fifteen feet, but the pressure varies at different times. It is the same with nearly all the springs. At no time, however, do the jets cease entirely. As the degree of pressure, and the height to which the water is thrown, vary, so does the sound. There are other wonderful phenomena here of which it would be out of place, in a report of this character, to enter upon a full description. To give some idea of these wonders, we can only here state that there are springs only a few feet apart, one cold and the other burning hot—springs issuing, apparently, from the same orifice, of waters of different color, smell, taste, and chemical composition. "Here," in the descriptive language of T. Starr King, "we would turn up a patch of brown, crumbly soil, and find a clay that looks like blue vitriol; near by, under a shelving ledge, is a brisk, bubbling pool, overhung with verdigris encrustings; a few feet off, spurts a beaded jet of hot water, which sheds a dismal brown casting over the surrounding earth; a little way further still, is a spring that looks like pure, hot ink; then we discover a rock of alum that weighs two or three hundred pounds; then a small fountain of epsom salts; not far off, again, a basin of apparently boiling soap-suds; then iron springs, soda springs, white, red, and black sulphur springs; and soon a foul stygian sluice, close to the wall, from which a steam exhales to cover the overhanging earth with slimy deposit, which eats your clothes, if you touch it, as ravenously as aqua fortis." With this general idea of the wonderful phenomena exhibited in this locality, we must close our remarks, recommending it to the seeker after health and pleasure, as well as the searcher into the mysteries of creation. It is said that since the discovery of the Geysers, in eighteen hundred and forty-seven, the hot water and acids have decomposed some of the surroundings and rocks, and that the ground is gradually sinking. Near the "Geysers" are the somewhat celebrated "Indian Springs," supplied by three streams—sulphurous, chalybeate, and aluminate. They have been successfully employed in many instances in the form of baths.

Also, near the "Geysers" only four or five miles distant, may be found what are called the "Blue Lick" Springs—hot and cold—so named from their remarkable resemblance to the spring of the same name in Kentucky.

ZEM-ZEM SPRINGS.

Location.—In the northern part of Napa County, on Etiquary Creek, forty miles from Napa City.

Access.—By the direct road to Clear Lake, via Berryessa Valley.

Analysis.—S. Jeff Owens & Sons, the proprietors, furnish the following analysis, which they state was made by Dr. Boon, of Seigler Springs:

Sulphur	50 parts in 1,000
Iron.....	27 parts in 1,000
Magnesia.....	28 parts in 1,000
Solid matter.....	105 parts in 1,000

Properties.—The water is cold and very palatable; temperature, 64°, and doubtless will be found beneficial in certain affections of the kidneys and liver, as well as in rheumatism, for which they have attained some notoriety. The name, which may be found in Webster, means "holy well in Mecca."

ST. HELENA—WHITE SULPHUR SPRINGS.

Location.—These springs are situated in a deep, romantic cañon, in Napa County, about two miles west from the town of St. Helena, and eighteen miles northwest of Napa City.

Access.—The Napa and Vallejo Railroad lands passengers at Calistoga, whence conveyances can be had at all times.

Properties.—There are nine springs possessing substantially the same medicinal properties, varying only in temperature and in the relative proportion of their solid constituents. Of three of these a quantitative analysis has been made by Professor LeCompte, the result being the following, in a wine gallon:

Analysis of St. Helena, White Sulphur Springs.

	QUANTITATIVE ANALYSIS.			QUALITATIVE ANALYSIS.					
	No. 2.	No. 6.	No. 7.	No. 1.	No. 3.	No. 4.	No. 5.	No. 8.	No. 9.
Temperature of spring, August, 1871.	89.6 F. 1.00026	86.0 F. 1.00040	69.8 F. 1.00038	97.25 1.00010	79.7 1.00012	75.2 1.00023	76.4 1.00038	64.4 1.00018	68 1.00023
Specific gravity.....									
<i>Solids.</i>									
Carbonate of lime.....	Grains. 1.25	Grains. 2.44	Grains. 5.56	.....	.....	.....	.....	.....	.....
Carbonate of magnesia.....	0.62	0.56	4.36	.....	.....	.....	.....	.....	.....
Sulphate of soda.....	8.26	11.33	12.84	.....	.....	.....	.....	.....	.....
Chloride of sodium.....	21.72	23.41	14.23	.....	.....	.....	.....	.....	.....
Chloride of calcium.....	1.32	0.86	0.78	.....	.....	.....	.....	.....	.....
Chloride of magnesium.....	0.87	2.22	0.65	.....	.....	.....	.....	.....	.....
Sulphides sodium and calcium.....	2.65	1.85	1.62	.....	.....	.....	.....	.....	.....
Totals.....	36.69	42.67	40.04						
<i>Gases.</i>									
Sulphuretted hydrogen.....	Cu. inch. 6.15	Cu. inch. 4.25	Cu. inch Trace.	.....	Trace.	.....	.....	Trace.	Trace.

Remarks.—The other springs, of which only a qualitative analysis has been made, Dr. Hatch observes, possess the same ingredients. The waters are used both internally and for bathing.

“These springs belong properly to what are called the ‘light sulphur’ waters. Taking into consideration their temperature, more especially that of Number One, which is used principally for bathing purposes, and which is thought to contain a greater proportion of sulphuretted hydrogen than the others, we can imagine them useful for the general purposes to which this class of waters are adapted. At the present time, and under present management, the place is kept rather as a pleasant, healthful, and fashionable resort for the wealthy citizens of the metropolis and other cities, than as a sanitary retreat. For the former it is delightfully adapted—for the latter it might be profitably employed.”

CALISTOGA HOT SPRINGS.

Location.—The little Town of Calistoga, located at the terminus of the Napa branch of the Pacific Railroad, has become famous on account of its numerous mineral waters. The springs are situated in the level valley, five hundred feet above the sea, and surrounded, except on the south side, by high and picturesque mountains.

Access.—From San Francisco via steamboat to Vallejo, and thence by railroad, three and a half hours. From Sacramento, by rail, direct to Vallejo, thence, as above, and in about the same time.

Analysis.—The principal springs are sulphurous and thermal. The temperature of the one which has been analyzed by Dr. Hatch, is 97°, and yields the following result in each gallon of water:

	Grains.
Sulphuretted hydrogen gas—3.271 cubic inches.....	.....
Chloride of sodium.....	22.250
Chloride of calcium.....	3.263
Carbonate of soda.....	3.406
Sulph. soda.....	1.616
Sulph. magnesia.....	0.466
Silica.....	6.500
Alumina.....	trace.
Total.....	37.501

Properties.—These waters appear to be similar to those of St. Helena, yet probably lighter, containing less of the sulphuretted hydrogen and of the metallic oxides. They have been used with advantage in the diseases to which this class of waters are suited; especially in rheumatism, paralysis, dartsous diseases of the skin, and as an auxiliary in syphilitic affections.

Remarks.—The springs number about sixty, varying in temperature from lukewarm to boiling hot, and distributed over an area of one hundred acres. The waters are used almost exclusively for bathing, and commodious arrangements have been made for the plunge bath. A hot sulphur steam bath is also constructed, so that the effects of the water in the form of hot vapor may be procured. Here also are found the moor or mineral mud baths, similar to those of Franzensbad and Ma-

rienbad, in Bohemia. Calistoga is one of the outgrowths of our rapid American civilization. The name was framed by uniting the first two syllables of California with the last two of Saratoga; though there is not the least analogy between the two as regards the properties of the water. In this region, the vine flourishes luxuriantly, and grapes of every variety are to be had in abundance. Invalids are thus afforded the opportunity of trying the "grape cure," as practiced at Vevay, in Switzerland.

The following table gives the mean temperature of each month, as taken at the Springs Hotel, and published in Menefee's sketch book, already referred to: ⁽¹⁾

	6 A. M.	12 M.	6 P. M.
January	46°	56°	52°
February	50°	59°	56°
March	56°	60°	56°
April	52°	70°	60°
May	68°	77°	76°
June	68°	90°	68°
July	73°	84°	79°
August	60°	86°	77°
September	55°	82°	68°
October	52°	81°	72°
November	48°	64°	61°
December	46°	57°	56°

SKAGGS' HOT SPRINGS.

Location.—Sonoma County, about twenty miles north from Healdsburg.

Access.—From San Francisco by daily boat to Petaluma; thence by rail to Healdsburg, and thence about twenty miles to Springs. Time, about twelve hours.

Analysis.—There are three springs open at present. That nearest the hotel is impregnated with sulphur, iron, and borax. The temperature varies from 128° to 130°. The second spring, about one hundred yards distant, contains manganese, iron, sulphur, and soda. Temperature, 138° to 140°. To the left, and nearly opposite the spring just described, is the Iron Spring, situated on a knoll.

Remarks.—Besides these springs, there are several others in this county. Dr. Hatch gives the following analysis of one of these, which is called Geyser Spa Spring. The solid contents in one quart of water are reported as follows:

(1) It is respectfully suggested to meteorological amateurs, that they take their observations hereafter at seven A. M., two P. M., and nine P. M., so as to conform with the plan adopted by the Smithsonian Institute, to secure uniformity. The period or length of time observed should also be mentioned. Proper blank forms will be furnished, when applied for, from this office.—[Secretary Cal. St. Bd. Health.

	Grains.
Bicarbonate of soda.....	5.87
Bicarbonate of magnesia	2.45
Carbonate of iron.....	0.95
Carbonate of lime.....	1.14
Chloride of sodium	2.49
Sulphate of soda.....	0.85
Silica.....	0.45
Loss.....	0.08
	14.28

The water of this spring, like some other mineral waters, is bottled and sold for ordinary use. It is esteemed by many as an antacid and mild corrective of disordered digestion.

PACIFIC CONGRESS SPRING.

Location.—In the coast mountains, ten miles southwest from the Town of Santa Clara.

Access.—From San Francisco, via South Pacific Railroad.

Analysis.—Dr. Hatch gives the following result in each gallon of water:

	Grains.
Chloride of sodium.....	119.159
Sulphate of soda.....	12.140
Carbonate of soda.....	123.351
Carbonate of iron.....	14.030
Carbonate of lime.....	17.295
Silica, alumina, and traces of magnesia.....	49.882
Total.....	335.857
Temperature, 50° Fahrenheit.	

Properties.—The water is laxative in its effects when freely employed, and, besides its use for the general purposes of the waters belonging to this class, it has been found of essential service in habitual constipation. It is decidedly chalybeate, and should be indicated in cases of chlorosis and anæmia, and generally where the tonic influence of iron is required. The carbonate of lime ought to add to its efficacy.

NEW ALMADEN VICHY WATER.

Location.—In the same section of Santa Clara County, and accessible by the same route, but farther south, than the above spring, near the New Almaden Quicksilver Mines.

The analysis reported by Dr. Hatch gives the following result to each quart:

	Grains.
Carbonic acid.....	28.2
Bicarbonate of soda.....	50.3
Bicarbonate of lime.....	8.0
Oxide of iron.....	1.2
Sulphate of lime.....	10.5
Sulphate of magnesia.....	3.0
Chloride of sodium.....	8.4
Solid constituents, with traces of silica.....	108.16

Properties.—It has been much used in old rheumatic and gouty affections, and is of value in debilitated and chlorotic conditions, and in some gastric disorders.

PASO ROBLES HOT SPRINGS.

Location.—San Luis Obispo County, California.

Access.—From San Francisco by steamer, about one hundred and eighty miles south to San Luis Obispo; thence, twenty-seven miles north by stage, to the springs. Or, by San Francisco and Southern Pacific Railroad to Soledad; thence forty miles south by stage to the springs. From Los Angeles, north, by steamer, to San Luis Obispo.

Properties.—From the following analysis it will very readily be seen that this is an exceedingly valuable thermal water, closely allied in chemical composition to the waters of Aix-la-Chapelle, in Rhenish Prussia. There is the unusual combination of thermality, considerable chloride of sodium, sulphuretted hydrogen, carbonic acid gas, and an active amount of alkaline carbonates. A water such as this cannot fail to be a benefit in very many cases of gout, chronic rheumatism, and dartsous skin diseases; also, in contractions of the joints and old gun-shot wounds. In fine, it is applicable to all those diseases especially benefited by a thermal saline-sulphur water. The immediate effect of the water is laxative and diuretic; the remote, alterative.

ANALYSIS.

One pint contains:	Main Spring, 112° Fahr. Prof. Thomas Price.	Mud Spring, 122° Fahr. Prof. Thomas Price.
<i>Solids.</i>	Grains.	Grains.
Carbonate of soda.....	3.664	0.543
Carbonate of magnesia.....	0.057	0.323
Chloride of sodium.....	2.830	10.047
Sulphate of potassa.....	0.092	trace.
Sulphate of soda.....	0.818	4.281
Sulphate of lime.....	0.334	1.864
Protoxide of iron.....	0.037	.....
Iodides and bromides.....	traces.	.....
Alumina.....	0.023	.....
Silica.....	0.046	0.116
Organic matter.....	0.171	0.361
Total.....	8.072	17.535
<i>Gases.</i>	Cubic in.	Cubic in.
Carbonic acid.....	2.31	10.53
Sulphuretted hydrogen.....	saturated.	saturated.

Remarks.—The name Paso de Robles means White Oak Pass, so called from the white oaks grown in the valley. Unfortunately, the immediate surroundings of the springs are not attractive, the valley in which they are situated being flat, and the mountains, on either side, low, and of a monotonous uniformity. But let the visitor go over a few miles to the southern slope of the Santa Lucia Mountains, and his eyes will be sated with color and scenery, more enchanting than can be witnessed outside of California.

The conveniences at these springs are such as accompany the early stage of improvement. There is a good hotel, and two swimming baths—one for gentlemen and one for ladies.

The description of the above springs, as well as that which follows, of Santa Barbara, San Bernardino, and Agua Caliente, is compiled chiefly from the work of Dr. Walton, already referred to.

SANTA BARBARA HOT SULPHUR SPRINGS.

Location.—Santa Barbara County, California.

Access.—From San Francisco, two hundred and eighty miles south, by steamer, to Santa Barbara; thence, four miles by stage; or, by Southern Pacific Railroad, to Soledad; and thence by stage thirty hours to Santa Barbara.

Analysis.—No quantitative analysis has been made. They are hot sulphur waters. Temperature, 60° to 130° Fahrenheit.

Properties.—These waters are valuable in chronic rheumatism, diseases of the skin, contractions of the joints, paralysis, and, as an auxiliary, in the treatment of secondary and tertiary syphilis.

Remarks.—In this connection, I insert a portion of a letter received March twenty-two, eighteen hundred and seventy-two, from Doctor M. H. Biggs, of Santa Barbara:

“The hot sulphur springs of Santa Barbara are situated at the head of a deep cañon, about five miles to the northeast of the Town of Santa Barbara, at an elevation of fourteen hundred and fifty feet above the level of the sea. They number, in all, seven, and seem to be of two distinct varieties. Those nearest the head of the cañon escape from crevices in the rock, and are four in number, all appearing to have the same properties, the most sensible of which are free sulphur and sulphuretted hydrogen; their temperature, 114° Fahrenheit. Another spring is situated about one hundred yards off, in a westerly direction from the first mentioned; temperature, 117° Fahrenheit. Its principal constituent is sulphate of alumina, evident from the thick incrustation of this salt on the under surface of the rock beneath which this water escapes; it also tastes strongly of sulphate of iron, and is said to contain soda and potash, and a trace of arsenic. The two remaining springs are located in a branch cañon, about one hundred rods in a northeasterly direction from the last one mentioned, and appear to possess the same qualities, with the exception of the temperature, which is only 112° Fahrenheit. No thorough analysis of these mineral springs has ever been made, at least in our time.

“It is said that while this country was in possession of the King of Spain, a corps of scientific men was sent out to this coast, commissioned, among other things, to test the properties of the several mineral springs known to abound here; and, that in their report they pronounced the Santa Barbara Hot Sulphur Springs to be the best and most medicinal,

and superior to any other in California 'for the cure of many diseases.' Whether they came to this conclusion from actual analysis, or from simply witnessing their effect, is not known. Certain it is that at the present day they are becoming famous for their curative effects in many cases of rheumatism, paralysis, various diseases of syphilitic origin, and skin diseases generally; and from persistent use of the waters (drinking and bathing) many individuals have been cured of such affections."

The climate of Santa Barbara is delightful. It seems more nearly to resemble that of Monaco and Mentone, on the shores of the Mediterranean, than any other in America. Throughout the year the temperature is mild and equable, affording that opportunity for continual out-door exercise that is so important to consumptives. From a report by me, in my capacity of Permanent Secretary of the State Board of Health, I subjoin the following:

Santa Barbara is the county seat and principal town of the county of the same name. It is built upon a beautiful slope, rising from the sea beach, at the southeastern extremity of a gently ascending valley, some fifteen miles in length and two in width, but gradually spreading out to five miles, as it extends into the interior. The beautiful harbor consists of a cove, or semi-ellipse, about one and a half miles wide from point to point, indented into the curving shore, and protected by the overlapping Santa Ynez and adjoining ranges. The gently-sloping beach for several miles affords safe sea-bathing at all seasons of the year. At low water an admirable and pleasing drive, equal to that of Newport, may here be had, and the interesting drawing of the seine, full of every variety of fishes, may be witnessed—a most important item in the dietary of the feeble, from the warmth-giving phosphorus contained in fish.

As to the climate of Santa Barbara, it will be seen that although lying in about the same latitude as Wilmington, North Carolina, ⁽¹⁾ yet it is totally different, and that the isothermal line would be deflected towards St. Augustine, Florida. Nearly the same clothing is worn all the year round, and there is no day in the year in which the invalid may not sit out of doors. This covers the most essential indication in the treatment of consumption, by affording a continuous supply of pure, unadulterated air-food for the lungs. Still, as the climate possesses some latent peculiarities in its favor, too subtle for ordinary observation, I shall instance the remarkable phenomenon so philosophically noted by Doctor Brinkerhoff, who has resided here eighteen years.

Some ten miles from Santa Barbara, in a westerly direction in the bed of the ocean, but about one and a half mile from the shore, is an immense spring of petroleum, the product of which continually rises to the surface of the water and floats upon it over an area of many miles. This mineral oil may be seen any day from the deck of steamers plying between here and San Francisco, or from the high banks along the shore, its many changing hues dancing upon the shifting waves of the sea, and affording various suggestions, both for the speculative and the speculator. Having read statements that, during the past few years, the authorities of Damascus and other plague-ridden cities of the East, have resorted to the practice of introducing crude petroleum into

(1) An unaccountable error has been running through all the numerous republications of this letter (which originally appeared in the *Rural Press*, in 1871), substituting Charleston, South Carolina, for Wilmington, North Carolina.—[Secretary of the State Board of Health.

the gutters of the streets to disinfect the air, and as a preventive of disease, which practice has been attended with the most favorable results, I throw out the suggestion, but without advancing any theory of my own, whether the prevailing westerly sea breezes, passing over this wide expanse of sea-laden petroleum, may not take up from it and bear along with them to the places whither they go, some subtle power which serves as a disinfecting agent, and which may account for the infrequency of some of the diseases referred to, and probably for the superior healthfulness of the climate of Santa Barbara.'

I would add that, during one week's sojourn here, my attention has been directed to the peculiar ambrosial influence pervading the air, so well described above, and that I indorse all that has been stated in this respect. That the climate of Santa Barbara possesses all the elements of general healthfulness in an eminent degree, is substantiated by the fact that the epidemics incident to childhood are almost unknown. Fever and agues never originate here. Smallpox, frequently brought from abroad, never spreads, although hundreds of the native population, either from ignorance or prejudice, never allow themselves to be vaccinated.

I have said, when speaking of the prolific yield of the soil, that it was due to the moist sea air. On this depends the deliciousness of the climate. Moist air, either too hot or too cold, is injurious. The latter chills the surface and drives the blood in upon the internal organs. But the moist air in which we bathe in Santa Barbara, is possessed of that happy combination of temperature with moisture, which, while it refreshes, also invigorates and vitalizes equally the whole system. The range between the wet and dry bulb thermometers, at two P. M., is usually about four degrees, except on foggy or rainy days, when they are often identical; and yet, strange to say, the feeling of chillness is never experienced. During the prevalence of a high land wind, the range is occasionally extended to ten or even twenty degrees; but even then that feeling of irritation and dryness which attends the same wind in the more northern portions of California, is unknown. This occurrence, however, does not happen oftener than once or twice a year, and then only for a brief period, about the equinoxes.

The peculiar evenness of the climate is shown in the following tables, compiled from the meteorological register of the Rev. J. A. Johnson, the indefatigable editor of the *Santa Barbara Press*:

	Monthly mean.
April, average of the three daily observations	60.62° F.
May, average of the three daily observations	62.35° F.
June, average of the three daily observations	65.14° F.
July, average of the three daily observations	71.49° F.
August, average of the three daily observations	72.12° F.
September, average of the three daily observations	68.08° F.
October, average of the three daily observations	65.96° F.
November, average of the three daily observations	61.22° E.
December, average of the three daily observations	52.12° F.
January, average of the three daily observations	54.51° F.
February, average of the three daily observations	53.35° F.
March, average of the three daily observations	58.12° F.
Average temperature for the year	60.20° F.

Coldest day.		Warmest day.	
April 12th.....	60° F.	April 16th.....	74° F.
May 15th.....	66° F.	May 23d.....	77° F.
June 1st.....	69° F.	June 3d.....	80° F.
July 26th.....	76° F.	July 11th.....	84° F.
August 11th.....	77° F.	August 8th.....	86° F.
September 23d.....	66° F.	September 27th.....	90° F.
October 23d.....	60° F.	October 20th.....	92° F.
November 7th.....	64° F.	November 20th.....	87° F.
December 15th.....	52° F.	December 28th.....	71° F.
January 11th.....	56° F.	January 3d.....	76° F.
February 22d.....	42° F.	February 28th.....	71° F.
March 13th.....	56° F.	March 27th.....	83° F.

Coldest day in the year, February 22d, 42° F.; warmest day in the year, October 20th, 92° F. Variation, 50°.

RANGE OF THE THERMOMETER

At the Morris House, Santa Barbara, California, from July first, eighteen hundred and seventy-two, to June thirtieth, eighteen hundred and seventy-three, from record kept by Dr. L. N. Dimmick.

1872.	JULY.			AUGUST.			SEPTEMBER			OCTOBER.			NOVEMBER			DECEMBER		
	7 A.M.	2 P.M.	9 P.M.	7 A.M.	2 P.M.	9 P.M.	7 A.M.	2 P.M.	9 P.M.	7 A.M.	2 P.M.	9 P.M.	7 A.M.	2 P.M.	9 P.M.	7 A.M.	2 P.M.	9 P.M.
1.....	73	79	60	64	74	60	68	76	65	52	69	53	56	80	57	68	77	55
2.....	77	75	61	65	78	63	64	70	65	61	69	58	58	70	55	52	65	52
3.....	67	76	60	64	80	62	64	75	62	61	69	57	59	62	51	57	63	50
4.....	62	76	62	65	77	62	64	77	62	61	69	60	58	64	52	52	64	52
5.....	70	76	63	65	82	63	65	79	63	55	73	60	58	70	53	58	68	57
6.....	66	76	64	65	82	65	63	77	62	58	70	58	60	75	51	54	75	57
7.....	65	74	60	65	73	64	63	77	62	62	85	58	60	70	56	60	72	55
8.....	68	79	64	65	78	65	68	76	62	63	80	61	56	63	54	68	76	59
9.....	65	76	65	61	74	62	69	74	63	58	67	60	55	65	59	66	70	48
10.....	66	76	64	63	73	60	62	74	63	57	66	56	60	64	44	50	60	50
11.....	67	78	63	64	75	62	64	81	63	60	71	57	52	65	48	45	67	49
12.....	64	75	64	65	79	64	67	81	64	55	72	58	51	69	52	47	70	47
13.....	66	80	66	64	83	66	64	73	65	60	68	58	64	75	71	45	67	49
14.....	68	78	65	65	80	65	66	77	65	58	67	59	50	76	65	46	63	44
15.....	66	76	63	65	80	67	70	79	63	58	68	58	58	81	65	45	61	44
16.....	65	72	64	64	75	63	60	71	60	58	67	58	59	81	56	44	62	44
17.....	63	74	60	64	76	61	62	73	61	56	67	57	60	70	53	44	62	42
18.....	63	76	63	64	76	60	64	75	60	58	69	55	49	71	46	41	62	42
19.....	68	77	64	64	73	60	62	70	61	58	71	56	49	70	50	43	60	43
20.....	66	77	62	65	74	62	64	71	60	59	64	58	51	73	48	43	62	45
21.....	64	75	60	62	77	63	62	70	56	59	67	52	52	66	48	43	63	46
22.....	65	75	63	61	77	64	62	70	57	58	68	52	56	61	48	43	60	52
23.....	63	76	61	64	77	65	54	70	59	56	65	57	53	59	54	52	64	56
24.....	63	75	62	66	80	64	58	72	63	56	67	54	60	62	50	53	63	58
25.....	61	75	62	68	81	68	61	75	62	55	66	49	51	62	47	56	61	58
26.....	62	75	61	66	92	71	64	75	62	57	70	54	58	63	46	58	62	59
27.....	63	76	60	76	87	71	60	72	60	58	70	54	51	64	48	58	61	59
28.....	64	76	62	73	88	72	59	79	69	60	66	54	52	66	52	59	59	59
29.....	65	79	62	72	80	71	58	67	58	60	68	56	54	70	54	57	64	58
30.....	70	82	64	69	78	65	58	67	58	58	73	52	58	68	56	55	60	57
31.....	65	80	62	69	75	63	.....	.....	.....	58	79	52	.....	.....	.....	52	62	55

RANGE OF THERMOMETER AT SANTA BARBARA—Continued.

1873.	JANUARY.			FEBRUARY			MARCH.			APRIL.			MAY.			JUNE.		
	7 A.M.	2 P.M.	9 P.M.	7 A.M.	2 P.M.	9 P.M.	7 A.M.	2 P.M.	9 P.M.	7 A.M.	2 P.M.	9 P.M.	7 A.M.	2 P.M.	9 P.M.	7 A.M.	2 P.M.	9 P.M.
1.....	51	64	50	42	52	47	48	62	52	62	72	66	63	69	57	76	76	63
2.....	50	63	54	42	52	46	48	66	50	60	68	60	60	70	58	68	71	60
3.....	55	62	52	43	56	49	48	68	50	58	64	48	62	65	56	59	70	59
4.....	54	61	51	42	58	50	49	70	51	51	56	46	60	67	54	59	70	58
5.....	51	65	60	45	61	51	50	62	54	54	63	51	57	67	55	61	71	58
6.....	51	66	56	43	61	52	52	61	50	58	65	60	56	67	56	60	71	58
7.....	50	70	59	46	66	52	49	66	51	58	68	51	56	65	57	62	70	60
8.....	52	72	55	44	59	55	54	65	54	58	68	53	58	67	56	60	71	58
9.....	50	76	55	50	59	50	52	72	71	58	63	51	56	67	57	57	70	58
10.....	52	73	57	51	62	52	62	72	60	50	63	51	56	66	57	59	70	60
11.....	55	64	51	48	60	55	59	73	57	53	63	51	57	67	57	60	73	60
12.....	50	61	54	52	66	54	55	61	56	53	61	52	58	65	58	60	71	59
13.....	51	72	54	55	61	53	53	58	56	58	67	53	60	70	57	61	70	60
14.....	52	62	50	46	61	48	54	63	56	60	75	58	63	66	58	60	70	60
15.....	50	67	52	47	59	48	56	62	55	63	79	60	62	68	57	62	72	60
16.....	49	71	52	50	59	46	53	62	55	65	80	63	63	67	55	68	71	61
17.....	51	74	55	40	55	43	55	70	61	58	67	55	56	65	56	70	74	66
18.....	50	73	53	46	50	46	68	75	61	54	63	54	60	69	56	70	72	62
19.....	49	73	55	48	56	49	60	72	57	56	65	55	61	71	55	64	74	62
20.....	49	71	55	46	62	49	58	71	56	58	65	58	65	71	59	63	72	61
21.....	53	69	52	46	62	50	58	63	60	60	73	59	59	68	55	63	71	60
22.....	46	72	52	52	67	56	57	63	57	65	75	68	66	70	57	65	74	61
23.....	47	59	49	54	60	57	59	64	52	58	64	56	65	70	58	68	75	60
24.....	49	67	54	57	56	47	54	62	53	53	64	55	62	71	59	62	73	59
25.....	50	69	52	46	56	46	56	65	53	56	65	58	60	68	57	63	73	61
26.....	51	64	49	44	56	47	53	64	55	58	65	55	60	68	58	70	75	62
27.....	53	71	55	46	60	51	54	68	58	58	68	55	60	68	57	71	80	64
28.....	47	64	53	48	60	49	59	65	53	59	64	58	65	72	58	68	74	62
29.....	49	67	51	.....	.....	.....	55	75	61	64	76	60	69	72	62	68	72	62
30.....	45	62	54	.....	.....	.....	62	75	61	68	77	57	70	73	69	66	70	60
31.....	42	54	52	.....	.....	.....	62	76	60	.....	.....	.....	72	78	77	.....	.....	.....

AGUA CALIENTE, OR WARNER'S RANCH SPRINGS.

Location.—San Diego County, California.

Access.—From San Diego, about fifty miles northeast, in a direct line.

Analysis.—Thermal sulphur-waters.

Remarks.—The following is the description of these springs as given by W. P. Blake, Geologist of United States Exploring Expedition:

“The thermal springs, generally known as the ‘Agua Caliente,’ are situated on the slope of one of the ridges at the most eastern part of the valley (Warner’s Ranch). They have long been resorted to by the Indians for bathing, and the cure of various diseases. The water boils up from out of a granite ledge, through a number of openings or cleavage-fissures, and in one place it appears to have enlarged the opening so that it has become nearly cylindrical. The water flows copiously from different apertures, and the united streams give a volume of water about equal to what would be delivered from a two-inch pipe under a pressure of one or two feet. These openings are in a slight ravine, which appears to have been the bed of a brook that is now deflected

from its course by a dam built for the purpose by the Indians. In descending towards the spring, the odor of sulphuretted hydrogen is at once perceptible, and a slight cloud of steam rises from the water. The temperature of the water was taken, and the following are the results:

First, or principal spring.....	142° F.
Second spring.....	141° F.
Third spring.....	140° F.
Fourth spring.....	140° F.
Fifth spring, ten feet distant.....	136° F.
Stream below the springs.....	130° F.
Stream above the springs.....	58° F.
Air.....	74° F.

Time, 9 A. M., November 30, 1853.

"Bubbles of sulphuretted hydrogen were constantly escaping, and the water was highly charged with it; and had an acid taste that was quite agreeable. There was only a slight deposit or incrustation on some of the rocks (consisting of sulphur). A small jet of steam was constantly issuing from a crevice near the main spring, producing a slight hissing sound like steam from a leak in a boiler." (¹)

SAN BERNARDINO HOT SPRINGS.

Location.—San Bernardino County.

Access.—From the Town of San Bernardino, about fifty miles north-east from Los Angeles; thence, about five miles distant.

Analysis.—Pure and calcic thermal waters.

Remarks.—These springs are situated on the flanks of Mount San Bernardino. They are described as follows, by W. P. Blake, Geologist of the U. S. Survey, who visited them between the third and sixth of November, eighteen hundred and fifty-three:

"The warm and hot waters gush out from the granitic rocks on the flanks of San Bernardino and adjacent heights. In one place the springs are so numerous, and the water rises in such volume, that a good-sized mill stream of hot water is formed, which flows down into the valley, and is one of the principal tributaries of the Santa Anna River. This brook of hot water retains a temperature of 100° Fahrenheit, three or four miles from its source.

"I visited several of the springs on the sides of the sierra, between San Bernardino Mountain and the Cajon Pass, near the sawmill road. * * * It was evident that the adjacent granite was very near the surface, as shown by one or two outcrops, from one of which the hot waters issued. Small springs rise at intervals of ten or twenty feet along a distance of thirty or forty rods. Their waters unite, and form a little stream that empties into the brook a short distance below. The banks of the stream were thickly overgrown with grass. A dense mass of beautiful green confervæ grew from the bottom and sides of the channel, and floated in rich waving masses in the hot water. In the immediate vicinity of the springs, however, no vegetable growth was visible. The rocks and gravel in contact with the water were covered with a snow-white incrustation, and little twigs and leaves that had fallen into

(1) Government Explorations for Pacific Railroad, vol. v, p. 106.

it were softened to a white, pulpy mass, and were partly incrustated. This was also the case with insects that were lying dead in the shallows of one of the springs, but I could not observe that in either case any petrification or internal deposit of mineral matter had taken place. The following temperatures were observed: 172, 169, 166, 130, 128, 108° Fahrenheit. The temperature of the hot stream below all the springs was 130° Fahr., and the mountain brook only 65° Fahr. Temperature of air, 76° Fahr.

"The white crust was not found in equal quantities at all the springs. It appeared to be most abundant at one of them. * * * An analysis of the crust (by J. D. Easter, Ph. D.) since the return of the expedition, gave the following results:

"The aqueous extract contained only a small proportion of chloride of sodium. In hot hydrochloric acid, the mass dissolved with strong effervescence, leaving a residue of silica and alumina. The solution contained:

"Lime (carbonate), chief constituent.

"Silica (soluble in acid).

"Magnesia.

"Alumina and oxide of iron, traces.

"Phosphoric acid, trace.

"The springs are estimated to be at least five hundred feet above the level of the Santa Anna, at the Mormon settlement, and thus nearly sixteen hundred and eighteen feet above the sea.

"These springs are not the source of the large stream of water first referred to. It takes its rise farther eastward, near the mountain of San Bernardino. I regret that I could not visit its source, as the springs must be of great volume and high temperature to send forth such a large stream of water retaining its temperature a long distance from the mountains. I was informed there are several other localities of hot springs along these mountains, and there are, no doubt, many that have not yet been discovered. The large stream of hot water appears to be nearly pure." (1)

Besides the springs that have been enumerated, there yet remain many others, of noted qualities, to be described; in fact, the resources of the State, in this respect, are capable of being developed to an almost indefinite extent, and we feel assured that when all the waters of the Pacific Coast shall be thoroughly analyzed, we shall find some of them equal the celebrated alkaline thermals of Vichy, and the muriated alkaline thermals of Ems. I have endeavored to arrange all the well-established facts relating to the climate, surroundings, and properties of the waters passed under review, in such manner that they shall be readily accessible; and it is hoped that a sufficient knowledge of these restorative agencies has been imparted to enable all to judge correctly of their specific character and adaptations. A wide field is now opened up for the exercise of the skill and judgment of the medical adviser in selecting for his patient the waters best adapted to the nature and necessities of his case.

(1) Government Explorations for Pacific Railroad, vol. v, pp. 63, 64.

CHARACTER OF GOOD WATER.

We are now in a position to consider the qualities which good potable water should possess, and on the abundant supply of which the healthfulness and prosperity of our cities and towns so largely depends. Dr. Parkes gives the following as the essential characters in relation to the dissolved constituents: Organic matter should not exceed one and one half grains per gallon; carbonate of lime, sixteen grains; sulphate of lime, three grains; carbonate and sulphate of magnesia, three grains; chloride of sodium, ten grains; carbonate of soda, twenty grains; sulphate of soda, six grains; and the total solid contents should not exceed thirty-five grains per gallon.

CONTAMINATION WITH LEAD.

Water is occasionally liable to be contaminated by contact with lead, and as this metal is largely used for pipes and cisterns, the possibility of this taking place is frequent. The quantity which may prove injurious is often very small. From cases which have occurred, it seems probable that the habitual use of water containing one tenth to one twentieth grain per gallon may be dangerous. In fact, all lead contamination of water is to be looked upon with the gravest suspicion, as liable to set up general disorder of the system, especially of the digestive organs, or even to produce lead colic, paralysis, etc. The water most liable to become poisoned by contact with lead, is that which contains little (less than one fifteen thousandth part) or no saline matter, as in rain and very soft water, and this is facilitated by the presence of organic matters, and the more so if nitrates and nitrites are likewise present. The presence of one five thousandth of its weight of sulphate of lime in water, entirely prevents lead contamination. Junction with pipes of a different metal, facilitates the action of water on those made of lead, by establishing galvanic action. A notable instance of this, which occurred in Sacramento, will be found in the following statement of the local Board of Health. To prevent poisoning of this kind, the lead is often covered with a coating of various substances, such as tin, bitumens, some resins, etc. The use of iron pipes and cisterns, of course, entirely prevents the mischief, and is, in a large number of cases, desirable, if only as a precautionary measure:

LEAD POISONING FROM COMPOSITE WATER PIPE IN SACRAMENTO.

In the discharge of their duties, both officially and professionally, the Board of Health deem it incumbent on them to publish the following statement:

No less than seventeen cases of illness, presenting all the most unequivocal signs and symptoms of lead poisoning, have come to our knowledge within the last month in this city. Most of these cases have partaken of the characteristics of slow, chronic poisoning, clearly diagnosed in lead, from ordinary colic, by a blue line on the dental edge of the gums, whilst some of them have been suffering terribly for several months, previously to our becoming cognizant of the fact, with intense muscular pains and loss of power, more or less approximating paralysis—all of them occupying residences supplied with water from pipes made of a patent composite metal, advertised and known as a

"sanitary water pipe." It is here proper to remark, that the earlier symptoms of this affection are so obscure in their origin, and simulate so closely other diseases of the stomach and bowels, that physicians are frequently in doubt as to the true nature of the cause of suffering until sufficient time has elapsed to obtain positive signs of metallic poisoning—lead, which is the most easily dissolved metal in water, and at the same time most poisonous in minute quantities, being a cumulative poison. In no single instance referred to above had the patient not been subjected to the action of the water served from the aforesaid composite metal pipe; and not a solitary case has been heard of in the whole city of symptoms, coördinate with those described, where the old lead pipe had been in use.

As soon as our suspicions became aroused as to the cause of suffering, directions were forthwith issued to discontinue the use of the water supplied by the composite pipe, when a steady and happy alleviation of the most urgently distressing symptoms—such as the dragging and twisting pain of the bowels, the obstinate constipation, and, in the worst cases, vomiting—ensued. Under these circumstances, a meeting of the Board of Health was called, and the whole matter confided to the hands of our Secretary, with a request that he would make such an investigation as the emergency rendered necessary, and report the result to the Board. We now beg leave to call attention to the following very satisfactory report which has been adopted by us, and which, it will be observed, not only confirms the correctness of the suspicions that were entertained, but also positively establishes the fact that the composite pipe in question is not only detrimental to the health of our citizens, but is also dangerous to life, and should under no conditions be employed in distributing the waters, at least of the Sacramento River.

(Signed:)

I. E. OATMAN, M. D., President,
F. W. HATCH, M. D.,
W. R. CLUNESS, M. D.,
G. L. SIMMONS, M. D.,
THOS. M. LOGAN, M. D., Secretary,
Board of Health.

REPORT OF THE SECRETARY OF THE BOARD OF HEALTH.

GENTLEMEN: In compliance with your request relative to the matter of the late poisoning by the use of the composite water pipe recently introduced into the city, I would report: That as a first and most important step in the inquiry, I procured four samples of the suspected water, which had been allowed to remain from twelve to twenty-four hours in the service pipes of the houses in which the cases of illness had occurred, and submitted them to J. F. Rudolph for chemical examination and qualitative analysis. The result will be found in the following letter:

"Dr. T. M. Logan, Secretary of the Board of Health:

"The four (4) samples of water drawn through *composite* pipe, and supposed to have caused lead poisoning in those who had used it, were examined in the manner given below. The evidences of lead were clear, a quantity being obtained equivalent to one quarter ($\frac{1}{4}$) of a grain of

the metal to the gallon of water; of arsenic a mere trace only was had; of antimony the same may be said.

"The different samples were similar in appearance, resembling partially settled water, being somewhat milky or opalescent.

"As no precipitate was had with hydrochloric or sulphuric acids, or iod. potass, a portion of each sample was separately concentrated by evaporation, acidified with nitric acid, and evaporated to dryness. The residue was dissolved in a small quantity of same water and tested, one portion with sulphuric acid, and another with iod. potass, obtaining, in every case, abundant evidences of lead. In one instance, a repetition of the process was had with two (2) ounces of water, with similar results.

"From two (2) pints of water one eighth ($\frac{1}{8}$) of a grain of iodide of lead was obtained, equivalent to one half ($\frac{1}{2}$) grain to the gallon of water. As the iodide contains about forty-five per cent of lead, it would indicate one fourth ($\frac{1}{4}$) grain of the metal taken up by that quantity of water (one gallon).

"A portion of water was drawn from my office hydrant (the lead-pipe in which has been in service about eight (8) years), and subjected to the same process, without finding the slightest trace of lead impregnation.

"On reporting the above, you requested me to seek for evidences of arsenic and antimony. Sixteen (16) ounces of water were concentrated to two (2) ounces by evaporation, digested with sulphuret of potassium, filtered, the filtrate diluted and boiled with excess of acetic acid. The precipitate from the acetic acid was well washed, mixed with nitre and carb. soda, dried and carefully fused, digested with hot water, filtered; nitric acid added to slight excess, and heated. Nitrate of silver was then added, and when cool, filtered, poured into a test tube, and dilute ammonia carefully dropped on the surface of the liquid, then set aside, after some time showing a very slight brownish red precipitate, indicating arsenic.

"J. F. RUDOLPH.

"SACRAMENTO, April 8th, 1872."

It will be seen from this searching investigation, that while a remarkable quantity of lead was found in the water taken from the composite pipe—a quantity amply sufficient to produce the most pernicious effects of lead poisoning, inasmuch as the one hundredth of a grain of lead to the gallon has been known to produce palsy in persons who habitually drank it (¹)—no trace whatever of lead impregnation was discovered in the water drawn from the old pipe, which had been eight years in use in the laboratory. Without going any further, we have here abundant confirmation of the suspected cause of illness, and evidence abundantly sufficient to condemn and interdict, as destructive to human life, the use of the composite pipe for the distribution of the Sacramento River water. Whether water from other sources will produce the same resultant effects is a question which remains to be solved. Pushing the investigation farther, I find, on examination of the two different pipes themselves, from which the water that was examined had been obtained, First—That in the old lead pipe, from which the water that contained no traces of lead was procured, there was found a closely adherent and very thin film—the sulphate of lead—deposited uniformly upon the

(1) A celebrated case occurred in the royal family of France, at Claremont, where one third of the persons who drank of the water, which contained only one tenth of a grain of lead in a gallon, died.

inner surface of the pipe. This observation is not a new one, but has often been made before, respecting other river water, the minute quantities of salines almost invariably present protecting the lead from further chemical action; whereas, if the water be perfectly pure, it soon becomes impregnated with lead. Second—That in the new composite pipe there was seen no such film of the sulphate of lead as found in the old pipe, but simply a loose deposit of river mud, on removing which, streaks of a blackened and slightly corroded surface were made apparent. In this latter fact is to be found the solution of the lead contamination and the deplorable effects that resulted therefrom. By water contact the galvanic action created by the dissimilar metals entering into the formation of the composite pipe, promotes corrosive action, and hence the water becomes poisonous. "Precisely the same evil is met with," states the Boston Journal of Chemistry, for July, eighteen hundred and sixty-eight, "in the use of metallic double lined ice water pitchers. The lining of these vessels is often made of dissimilar metals, and the parts joined together with solder, into which lead enters as a constituent. *

* * Pure water acts much more energetically upon lead and other metals than the ordinary kinds; and hence the action is greatly promoted by the ice water, which is very nearly as pure as that which is distilled."

With the knowledge of these data, on which to base an opinion, I have no hesitation in advising that we recommend that an ordinance be passed prohibiting the laying down and further use of the composite metal pipe for the distribution of the Sacramento River water.

THOMAS M. LOGAN. M. D.,
Secretary Board of Health.

SACRAMENTO, April 12th, 1872.

ACCIDENTS AND EXPLOSIVES IN MINES.

Mining is one of the most important interests in the State, and the numerous accidents resulting in injury or loss of life, incurred in pursuing mining operations, have not escaped the attention of the Board. From the very nature of their occupation, miners are more exposed to danger than perhaps any other class of operatives. Premature explosions, defective blasts, breakage of machinery, caves, fires, etc., all combine to make their lives hazardous.

There are laws now in existence, which to a certain extent, provide for the protection of miners as regards outlets from a mine in case of fire, and in other particulars. They are, however, a dead letter in most cases, for we have yet to hear of an instance where infraction of the rules has been punished. In a good many mines on this coast, rickety old hoisting gear is used for hoisting men, which is dangerous in the extreme; but the owners argue that if anything breaks, it will be with a heavy load of ore, not men. We are glad to say, however, that good, secure machinery is the rule of this coast, and bad machinery the exception. In speaking of the punishment of mine owners for keeping damaged or insufficient gear, etc., an illustration of the method they are dealt with, under the new English Mining Law, comes to us, says the *Mining and Scientific Press*, of July fifth, eighteen and seventy-three, from which we here copy, in one of our late foreign exchanges:

A boy was killed by falling down a shaft in a colliery. At the inquest it was shown that the machinery was of the most antiquated description. A gin was erected at the top of the shaft, to which was attached a couple of ropes and cars; as the one descended the other ascended, communication being made to the man on the dump, to set the machinery in motion, when required. The man was frequently absent, and a neighboring quarryman discharged his functions, while at other times they were done by passers-by. One day the boy gave the signal to come up, which was answered by some one unknown, and he hitched himself in the chains and ascended. The weight of the descending car proved too heavy a balance, he went up with a surge, and on coming in contact with the gin, was precipitated down the shaft and killed. The jury returned a verdict of manslaughter against the proprietor. This is an exceptional case, but one warranted to impress mine owners with a healthy regard for the lives of their employes. The English Mining Laws recently passed are much more stringent, with regard to these particulars, than ours. One provision creates a system for securing the competency of managers; another lays down certain general rules for the prevention of accidents; a third provides that an amount of ventilation shall be produced in every mine, sufficient to dilute the noxious gases; a fourth establishes a Board of Inspectors to see that the various provisions are carried out. It is also provided that the mines shall be inspected, at least, once in twenty-four hours, and a regular report made.

At the regular quarterly, held on the nineteenth April, eighteen hundred and seventy-two, the attention of the Board was called to the subject of dynamite, or giant powder, when used for mining purposes, by the following letter:

GRASS VALLEY, NEVADA COUNTY, CALIFORNIA, }
March 8th, 1872. }

DOCTOR LOGAN, *Secretary State Board of Health:*

DEAR SIR: You probably have heard of the controversy and trouble existing here, at present, respecting the use of dynamite, or giant powder, in our mines—one party insisting that its use is not more injurious than the common black powder to the health of the miners; whilst another, with equal pertinacity, assert that its use will destroy the health of the miners, as well as all others underground inhaling its fumes.

Would you please investigate the matter; and, as it affects the well-being of a large class of our community throughout the mining districts, would you bring the matter before the State Board of Health at the first opportunity? ●

I am unable to determine from the data I have at present, that its use produces any more serious effects than headache, nausea, and some prostration of the nervous system, which passes off in a few hours. So far, I have seen no one that seemed to suffer any permanent trouble. The point to determine, particularly, is, whether its effects are merely transitory—such as the use of tobacco, or other substances, produces when first used, and which the system in a short time becomes habituated to—or will it have permanent injurious effects upon the vital powers?

Miners, here, as a class, are opposed to its use from prejudice, etc., and their statements, in consequence, are not wholly reliable.

At Smartsville, and other places, I have talked with miners who have used it continually for one or two years without any serious trouble, beyond headache and nausea, for the first few days of its use, and who even declare a preference for it to the common black powder.

A reply, at your earliest convenience, as to what you know of its effects, and how its use might affect the health of miners, will greatly oblige,

Yours, very truly,

JAS. SIMPSON, M. D.,
Grass Valley.

The reading of this letter gave rise to considerable discussion. Although no definite conclusions were arrived at, still it seemed to be the sense of the Board that no more injurious effects would result from the use of giant powder in properly ventilated mines than from ordinary gunpowder; but that, owing to its far greater power and effectiveness in blasting, the miners had got up a prejudice against its use, because the demand for their labor was thereby curtailed. A resolution was, nevertheless, adopted requesting the Secretary to investigate the subject and report at some future day. Accordingly a correspondence was opened up with several medical and scientific societies, as well as with individuals in the State, soliciting information, with the following results:

Chief Engineer Montague, of the Central Pacific Railroad, who had had considerable practical acquaintance from blasting, with dynamite, or what is equivalent to it, nitro glycerine, stated, that he believed the fumes were more or less noxious, when confined and not speedily dispersed by currents of air, and that he himself had experienced headache when exposed to its influence. Still, as he had never heard of any permanent ill effects from its employment, he was inclined to think that the noxious influence of the fumes were only temporary.

Colonel A. W. Von Schmidt, engineer, concurred in the opinions expressed by Mr. Montague, and further stated that the mere handling of the substance would in his instance produce the same temporary effects as the fumes.

No further information with regard to the toxic properties of this substance was elicited from other sources—but much practical knowledge has accrued. As the nature of the substance is little known, we feel confident that some accbunt of its manufacture and properties will prove of interest and value to those who are in the habit of handling this most dangerous compound. To the kindness of one of the Engineering Corps of the Central Pacific Railroad, I am indebted for the following account of the manner of preparing and using nitro-glycerine:

NITRO-GLYCERINE.

A set of experiments on the efficiency of nitro-glycerine were made in the Spring of eighteen hundred and sixty-six, with results very decidedly in its favor, but the accident from its explosion at San Francisco, April sixteenth, put a stop to the experiments, and for a time all idea of using it on the road. In January, eighteen hundred and sixty-seven, fears began to be entertained that the Summit tunnel might not

be finished in time for the track, and several methods of expediting the work suggested, none however so promising as nitro-glycerine. After a few days trial, it was decided to use it instead of powder.

A frame house was accordingly put up near the shaft for its manufacture, and Mr. James Houden, of San Francisco, put in charge of making it. The process, as described by him, is as follows:

The acids used should be stronger than the ordinary commercial article; the sulphuric should be 66° Baum, and the nitric 49° to 50°. They are mixed in the proportions of two parts of sulphuric to one part of nitric.

Thirty-five pounds of the mixture is put in a stoneware jar, and the latter immersed in snow or cold water. It may be set in water at 45° F., and the temperature may rise to 75° without danger. When well cooled, seven pounds of pure glycerine is poured in slowly while the contents of the jar is stirred. By the time that half the glycerine has been stirred in, the temperature rises to 60°. At that point the mixing must be stopped, as the acid would soon reach boiling point, and begin to spurt and bubble about, to the danger of the maker. After ten minutes delay, the mixture will have cooled so that the remainder of the glycerine can be poured in. Another ten minutes rest is now given to cool, and the nitro-glycerine formed is ready to be washed. This is done by pouring the mixture slowly into a large tub of water, whirling the water rapidly with a broad stick while pouring in at the edge. The nitro-glycerine, being heavy and insoluble, sinks to the bottom, while the free acids are absorbed by the water. The latter being of no further use, is then poured off, and the nitro-glycerine remaining in the bottom of the tub is then collected.

By this process three equivalents of hydrogen in the glycerine are replaced by three of nitrous acid. The result is an oily liquid of a light yellow color, insoluble in water, and not subject to evaporation. It freezes at 40° F., and can be heated with safety to 212°, but explodes at 360°. It is highly poisonous; a single drop taken in the mouth producing violent headache, and several drops, death. The gases arising when its explosion is complete, are, for each volume of the oil, five hundred and fifty-four volumes of steam, four hundred and sixty-nine of carbonic acid, thirty-nine of oxygen, and two hundred and thirty six of nitrogen. They are all transparent, and less objectionable than those from powder; but as minute particles of the oil appear to escape explosion, and be disseminated in the air, headaches often arise from entering a tunnel immediately after a large quantity has been fired. After using nitro-glycerine for a few days, it does not have this effect on the workmen; and in any case, much less time is lost in waiting for its gases to be entirely dissipated, than with powder.

In the headings, glycerine has been used almost entirely in the cartridges. These are from four to eight inches long, with tin bottoms and wooden stoppers; diameter, an inch or an inch and a quarter. The stopper has a hole bored through, in which is put a small quantity of powder, the fuse closing one end, and a plug of wax the other. The explosion of the powder in the plug drives the wax into the glycerine, which is fired by the shock.

The holes are tamped with sand or earth, as for powder, but not so tightly. Any blows on the cartridge should be avoided. It is very rarely that they miss fire. When they do, it is best not to drill out the old charge, but to scrape out carefully half of the tamping, and put a

small cartridge in. When this is fired, the shock will explode the bottom charge.

After the heading in Tunnel Six had been taken out, nitro-glycerine was used in the bottom. For this purpose, two and a half inch drills were used, and the holes made six or seven feet deep, and about the same distance back from the face. The load varied from two to fifteen pounds of oil, averaging half a pound to the yard of rock. The oil was brought on the work for the bottom holes in bottles, and poured in through a long tube with a funnel. At the top a small tin cartridge, like those used in the heading, but filled with powder instead of glycerine, was found to be the best mode of firing these large holes. I may mention that Tunnel Six is through solid granite.

Comparing the progress made with powder, and that made with glycerine, in the same rock, shows a difference of fifty-four per cent in favor of the latter; and in another tunnel, a difference of seventy-four per cent in its favor. The additional progress in heading arises from using one and one fourth inch drills, instead of two and one fourth to two and one half, as with powder. In the bottoms it is due to fewer holes being required, and to the rock being broken into smaller pieces. Both in headings and bottoms, less time was required to clear the tunnels of smoke, than when using powder.

The cost of nitro-glycerine made here was about seventy-five cents per pound, of which fifty cents covered cost of materials.

Nitro-glycerine has about eight times the force of the same weight of powder; so that the same effect may be produced at a less cost with it, as at least half the labor in drilling is saved, while the rock is broken smaller. There can be no doubt, that for most rock excavations, it is the cheapest material to use.

In sidehill cuttings, where seams can be taken advantage of, and it is desirable to waste the material, powder will often be more useful; but the two should be used together.

The best way of insuring safety is to make nitro-glycerine at the works from day to day, as required, and thus avoid storage and transportation as much as possible—long confinement in close vessels, with high temperature, making it much more liable to explode with slight shocks. When in good order, a flame will burn but not explode it—a heavy concussion being required.

DYNAMITE, OR GIANT POWDER.

From the above communication it appears, that in order to guard against explosion, it becomes necessary to prepare the nitro-glycerine that is daily used, on the spot. This is not at all times convenient or practicable, and consequently means have been devised to insure safety in its handling and transportation. The great danger of explosion from nitro-glycerine arises from sudden concussion, and, of course, the secret of securing safety therefrom lies in protecting against this, or, as it is termed, by "cushioning" it.

The sharpness and violence of the concussion of a blow is what explodes it. A nail can be driven in by a blow, not pushed in, unless with great force. The principle is simple, and well understood. If a soft substance is placed between the nail and hammer the blow has little effect. The nitro-glycerine is put in a cushion, so to speak. There are

different substances used for this purpose, the best of which is infusorial earth. When in that condition, you might as well try to drive a nail with a sand bag, as explode it by concussion. It is then giant powder. The infusoria in the earth used form so many little tubes, the force of capillary attraction absorbing a large amount of nitro-glycerine, which is cushioned in this manner. Every material with which nitro-glycerine is mixed, which has not these absorbent properties in a high degree, is dangerous, for if by any means nitro-glycerine runs or is squeezed out, you have all the original dangers of pure nitro-glycerine. Common gunpowder absorbs a considerable portion of nitro-glycerine, but is more dangerous than infusorial earth, as it comes out easier. It will hold about fifty-five or sixty per cent, while the infusorial earth holds seventy-five per cent. In warm weather it exudes from the powder badly.

Cotton is a poor absorbent and very dangerous; chalk also; magnesia is a good one. The present Hercules powder, which used to be made of black powder and nitro-glycerine, is said to be made with magnesia, and in ordinary temperatures may be deemed a safe absorbent. The higher the temperature the more liability to leakage in all of these substances. These compounds explode more readily according to temperature and wetness or exudation.

Giant powder, formed of nitro-glycerine, is well known in the East, and has been used in large quantities here since eighteen hundred and sixty-eight, and in Europe, since eighteen hundred and sixty-seven. No accidents have ever occurred with it in transportation. It never has exploded where the blame was chargeable to the powder. The Austrian government having first prohibited its transportation on railroads and stages, in eighteen hundred and sixty-nine reversed the law, it having been proven that it was perfectly safe. It is carried everywhere on this coast. There are five factories of it in Europe, one in San Francisco, and one in New Jersey. The consumption is from one million and a half to two million pounds per year, carried about in every possible way. All the explosions which have occurred here were caused by nitro-glycerine, not powder. At the explosion occurring here, at the Giant Powder Company's works, in eighteen hundred and sixty-nine, when the nitro-glycerine blew up, there were five thousand pounds of giant powder within thirty feet of the nitro-glycerine, which was unharmed. The concussion blew open the boxes, but did not explode the powder. The nitro-glycerine was left under water at that time, which caused the explosion, as spoken of above. Very recently, when the steamer "Meteor" burned up, on Lake Michigan, there were eight thousand pounds of giant powder aboard, which all *burned* up, with the entire cargo, without any explosion whatever. Here are two simple cases illustrating that it will not explode by ordinary concussion, or by the action of heat.

In the matter of heat it is peculiar. It can be burnt. If a small particle of the powder is put on a bar of iron, one end of which is in a fire and red hot, the red end will burn it; the co'd end has no effect; but on the part where there is a dull heat there will be a semi-explosion or detonation once perhaps in thirty or forty times in trying it, but not uniformly. Put this in a gas pipe, under similar conditions, and it will explode violently, being confined; but unless the confinement is such as to restrain the gases, it will burn up. In tin vessels or wooden boxes there is no explosion, but in a quicksilver flask, closed tight, it would burst. The large caps made for the purpose are the only things that

will explode it. If a small piece of giant powder is placed on a hard substance and ground up fine by rubbing with a knife for some time, and then struck, it will explode. But then it is nitro-glycerine, not powder. In grinding, the capillary tubes are destroyed, the powder turns from white to brown, and then darker, while a dampness is perceptible, showing that the nitro-glycerine has exuded or been forced out. These conditions are not likely to occur in every day use of the powder.

It will be seen, from the foregoing, what danger there is for ignorant persons to experiment with nitro-glycerine and its compounds. If the nitro-glycerine used is not thoroughly washed free of all acid, it is likely to explode at any time. If the gun cotton exuded the nitro-glycerine, as it would, the slightest jar would be sufficient to explode it. All these experiments were made by Nobel, the patentee of giant powder, when first inventing his compound. They were all found to be dangerous. The use of black powder was at that time, and since, tried, but discontinued, for it would not hold the nitro glycerine in warm weather, and was therefore dangerous. To show that a concussion will not explode giant powder, and that the nitro-glycerine explosion could not have set it off, the instance of the violent explosion in San Francisco may be cited, as well as many others. In England, very recently, a box of the powder was put on the buffer of a car, which was allowed to run down a grade and collide with another violently, smashing up both cars, but no explosion took place. The flames would burn but not explode it.

The verdict of the Coroner's jury, convened at Virginia to hold an inquest on the bodies of several who were killed on June twenty-ninth, eighteen hundred and seventy-three, states that the jury believed that the explosion was caused by gun cotton saturated with nitro-glycerine in the deceased Van Bokkelen's room. It is not likely that the nitro-glycerine was made there, but must have been shipped there by parties unknown. In doing this the law was not only violated, but people's lives were endangered while it was *in transitu*. The poor fellows who were making the experiments lost their lives by them, and others suffered from their ignorance and carelessness. It is to be hoped that what we have said will deter others from experimenting in the same direction, without a thorough knowledge of the conditions under which nitro-glycerine will explode, and even then the utmost precautions must be taken to prevent explosions. (1)

An excellent suggestion, in consequence of the many late calamities which have occurred in the lower depths of mines by foul air and fire, has appeared in some of our daily journals, which is to arch over each tunnel connecting the different levels of the mine, with solid masonry for a short distance; and in these archways place, a few feet apart, two sets of iron doors, so arranged that they may be closed at a moment's warning. The double doors of iron will resist any explosion that is likely to occur, and at the same time will prevent deadly gases finding their way through in sufficient volume to strike down the workmen without a moment's warning, as they were stricken during the late fire in the Nevada mines, and in that of eighteen hundred and sixty-nine. It is believed that such an improvement would be a wall of defense against the advance of fire, and enable the men to escape before the flames, or poisonous gases attending explosion, could overtake them in their retreat.

(1) To the columns of the "Mining and Scientific Press," of San Francisco, we are chiefly indebted for the above compilation.

SECURITY IN MINES.

Since the last accident in the Yellow Jacket Mine, on the Comstock lode, people have commenced to think that the mines are subject to be blown up or catch fire at any time. At the Coroner's inquest, held after the late explosion, one of the miners testified that when in the employ of the Gould & Curry Company, upon several occasions explosions occurred in the mine, caused by candles being brought in proximity to carbureted hydrogen gas. Many think that the great calamity of eighteen hundred and sixty-nine was from the same cause as the late explosion. The *Virginia Chronicle* says that when we take into consideration the fact that one of the explosions occurred on top at the old Yellow Jacket works, eighteen hundred feet from where the fire was in the thirteen hundred-foot level of the Jacket mine, we may imagine to what extent a mine may be filled with gases. We add a portion of the verdict of the Coroner's jury, that our readers may judge for themselves: "It is the unanimous conviction of the jury that the above named parties came to their death from asphyxia, caused by inhaling carbureted hydrogen gas while in a state of combustion, together with other gases. We are also of the belief that the deadly gases were generated by the fumes of charcoal rising from the Crown Point and Belcher blacksmith forges, taken in connection with other chemical reactions going on in the mine, from earth, minerals, and decayed wood. We find that the fire was kindled in the winze over and from sparks rising from the Belcher blacksmith shop. We severely censure the managers of the mine for allowing the blacksmith shop to be located underground, thereby causing the death of six highly esteemed citizens; and we also recommend that hereafter no blacksmith shops, or fires of any kind, be allowed in any of the mines on the Comstock lode."

Mr. Samuel Jones, Superintendent of the Crown Point mine, sensibly intends taking some precautionary measures to prevent loss of life in case of such accidents. His plan, as published in the *Enterprise*, is as follows: He intends arching over each tunnel connecting on the several levels of the Crown Point with other mines, with solid masonry for a distance of several feet. In these arched ways he will place, a few feet apart, two sets of iron doors, so arranged that they may be closed at a moment's warning. The double doors of iron will resist any explosion that is likely to occur, and at the same time will prevent deadly gases finding their way through in sufficient volume to strike down the workmen without a moment's warning, as they were stricken down during the late fire, and in that of eighteen hundred and sixty-nine. The drifts being clear of timbers for a considerable distance, it will cut off the mines adjoining it and form a perfect wall of defense against the advance of any fire that may occur on the outside of the mine; and in case of a fire in the Crown Point, the arched drifts and iron doors would serve to prevent the fire spreading to the mines adjoining. The cost of doing this work would be a mere trifle, when we consider the value of the mine and the sense of security such an arrangement would give to both the miners and the owners of the mine.

These mines contain such a large amount of timber that if they once caught fire it would take probably several years before the mines could be entered. The caves ensuing would destroy a large amount of property, and, perhaps, some lives. Mr. Jones' plan seems a good one, and as blacksmiths' forges will probably be abolished in the mines, and

sent to the upper regions, and additional precautions adopted, we do not expect to hear of any more accidents until this one is forgotten. The miners themselves are, generally speaking, the most careless people in the world, never thinking of danger until they meet it face to face. This being the case, it becomes the duty of their employers to adopt the necessary precautions to prevent accident. (¹)

CONCLUSION.

In bringing this report to a close, I would reiterate that it was in readiness at the time required by law (July last), but was retained, as stated in the beginning, in the hopes of receiving complete returns of marriages, births, and deaths. The publication was thus delayed until the accumulation of more pressing work in the State Printer's office rendered its earlier printing impracticable; and so, the incidental haste, at the last hour, has been the cause of several errors and omissions. This is particularly to be regretted in the instance of the table exhibiting the number of indigent sick in charitable institutions. The reader can, however, readily supply the missing calculations from the data afforded.

To "take cognizance of the interests of health and life among the citizens generally," and to that end "to place themselves in communication with the local Boards of Health, the hospitals, asylums, and public institutions throughout the State; to make sanitary investigations and inquiries respecting the causes of disease, especially of epidemics and endemics, the sources of mortality, and the effects of localities, employments, conditions, and circumstances on the public health;" to "gather such information in respect to these matters as they may deem proper for diffusion among the people;" to "devise some scheme whereby medical and vital statistics of sanitary value may be obtained;" to perform the duties of "an Advisory Board to the State in all hygienic and medical matters, especially such as relate to the location, construction, sewerage, and administration of prisons, hospitals, asylums, and other public institutions;" to inquire into "the effect of the use of intoxicating liquor, as a beverage, upon the industry, happiness, health, and lives of the citizens of the State;" and, "at each biennial session of the Legislature, to make a report of their doings, investigations, and discoveries, with such suggestions as to the legislative action required as they may deem proper"—such are the extensive, laborious, and responsible duties assigned to this Board.

I submit that, while endeavoring to comply with these requisitions of our organic law, I have adhered as closely as possible to the headings of the various subjects that have come under the consideration of the Board, and now refer to the following Appendix for several reports, lectures, and other documents, which it was deemed best to publish in such order. It is trusted, that a case has been clearly made out, showing the paramount necessity of a carefully digested system of State Medicine, and the importance of adopting such amendments

(1) Mining and Scientific Press, October 4th, 1873.

of the Code, relating thereto, as is herewith recommended, for the harmonious working of the various branches of sanitary police, and, consequently, for the more effectually accomplishing the ends and purposes for which the State Board of Health was created.

All of which is respectfully submitted.

THOS. M. LOGAN, M. D.,
Permanent Secretary State Board of Health.

SACRAMENTO (Cal.), November 1st, 1873.

APPENDIX.

THE LOS ANGELES COUNTRY;

ITS CLIMATE AND DISEASES.

BY J. P. WIDNEY, M. D., LOS ANGELES.

California, apart from its minor differences and peculiarities of climate, is divided, by one prominent headland upon the coast, into two climatic divisions. That headland is Point Conception. North of it the northwest wind, cold and bracing, but to the invalid and feeble chilling and depressing, reigns supreme.

The Sierras run parallel with the coast, but far in the interior, allowing a system of long valleys with a general northwesterly bearing, which are swept full length by the prevailing current of cold air.

Near Point Conception, however, the main range of the Sierras and the coast line draw near to each other, while spurs and broken mountains interrupt the system of valleys and oppose a barrier to the cold air current from the northwest.

The coast begins to deviate from its general northwest bearing, and trends sharply to the east. The result is a mild, equable climate, with only a gentle west wind from the ocean, cooling the air.

The mountain chains follow near the coast, except at what is known as the Los Angeles country. Here they bear off directly eastward, and circling around, to again approach the sea, wall in a system of valleys having an area of some three thousand square miles, and extending back nearly one hundred miles from the ocean. Thus, while at other points in Southern California the only available climate to be found is a strictly coast climate, with its attendant moisture and occasional chill, there is here a choice, ranging from the coast to the warm, dry, sheltered interior.

TOPOGRAPHY.

The Los Angeles Valley, broad and open, faces southward upon the ocean. Toward the southeast it narrows into a coast plain, twelve miles in depth by sixty in length, reaching toward San Diego. Eastward, it merges into the San Bernardino Valley, sixty miles in length. Other smaller valleys branch off and wind through the mountains. All of these valleys are walled in upon the north by mountains from five thou-

sand to nine thousand feet high, sheltering them from the north wind. The rains and melting snows of these mountains feed many streams, which are extensively used for irrigation.

CLIMATE.

The climate is essentially that of the northern part of the State, but robbed of its cold wind and grown softer and milder. The sun, five hundred miles nearer the tropics than at San Francisco, shines with an increased fervor, but the nights are cool and the air during the day never has the intense heat of the northern interior valleys. The seasons are later by several weeks than in the Sacramento Valley. The rains hardly set fairly in before the latter part of December, while the Spring is cool and delayed. The late commencement of Winter is due to the fact that the rain current first strikes the coast far to the north and travels backward, reaching San Francisco after it does Oregon, and Los Angeles still later than San Francisco. The tardy Spring is no doubt, in part, due to the snow upon the surrounding mountains. Upon some of them the snow lies from December to June. Warm south winds and a more vertical sun prevents any excess of cold from this cause. The ripening orange at the foot of the mountain is watered by the melting snow from its crest. July, August, and September are the months of greatest heat, but the daily sea breeze and frequent night fogs are constantly equalizing the temperature. The daily average at Wilmington, the seaport of the country, is as shown by the records at the Drum Barracks: For January, 55°; February, 56° 6'; March, 56° 9'; April, 58° 6'; May, 62° 8'; June, 63° 5'; July, 71° 6'; August, 73° 2'; September, 68°; October, 66°; November, 61° 8'; December, 52° 2'. Annual rainfall is from twelve to fourteen inches. Different portions of the country develop minor peculiarities, as they may be in the direct line of the wind current or sheltered by ranges of hills.

Santa Monica and La Ballona, upon the coast, are to the system of valleys what San Francisco is to the larger valleys of the north. Here the sea breeze leaves the salt water to sweep inland. Large numbers of persons camp at these places, and fill the seaside houses during the hot months, to enjoy the bathing and the fresh, bracing air.

The Valley of the Mission San Gabriel, somewhat higher than the main Los Angeles Valley, and separated from the City of Los Angeles by a low range of hills, is, in all probability, the mildest and healthiest spot in all Southern California. Even the sea breeze is tempered and robbed of its chill before passing the barrier of the hills. Facing out towards the warm morning sun, a broad, sloping plain, commanding from all points a noble view of the low, rich lands of the Monte, and the San José Valley, with a background eighty miles away, formed of the tall peaks of the Sierras. For the invalid, the feeble, to whom cold and dampness are death, it has hardly a rival upon the Pacific Coast. Here are the choicest of all the Los Angeles orange orchards and vineyards. One hour's easy drive from the City of Los Angeles reaches the heart of the Mission Valley. Ten months more and the Southern Pacific Railroad will be finished from Los Angeles through it.

DISEASES.

The country seems free from any strongly marked endemic diseases. Upon the low lands, along the river bottoms, malarious fevers are found

during the Summer and Autumn. This is commonly either an intermittent or bilious remittent. After a wet Winter, followed by a hot Summer, cases are not uncommon in these localities of typho-malarial fever. Much of this sickness can be traced to houses built low upon the ground, without proper attention to ventilation or the circulation of air under the floor. Persons living in properly constructed houses rarely suffer. Over the greater portion of the country, however, malaria is unknown.

Cases of pure typhoid fever are rarely seen. After four years of active practice, I cannot recall a case. Dr. Edgar, after some eight years in the country, gives the same testimony. Dr. Griffin, after upwards of twenty years in the practice of his profession, says he has seldom seen a case. The same may be said of typhus.

In the same localities where typho-malarial fever is found, a tendency to inflammation of the liver, sometimes abscess, can be noticed. Tenderness of the liver is a feature of nearly all the fevers.

I have seen a number of cases of cirrhosis of the liver, with albuminuria and degeneration of the kidney, but they have been clearly traceable to the use for years of sour wines and other forms of spiritous liquors. Habit, and not climate, was here at fault.

Miasmatic neuralgias, periodic in recurrence and curable with quinine, are frequent in the same localities that furnish the fever cases. Pneumonia and bronchitis are rare.

Rheumatism, generally in a sub-acute form, is occasionally met with, but is not common. I have noticed a singular tendency to traumatic tetanus at certain seasons, especially following lacerated wounds. One case, apparently idiopathic, has come under my observation.

Phthisis, originating in the country, is, I think, very seldom found. A few deaths occur from it among the Spanish, especially where there has been a mixing of bloods with a resulting diminished vitality. The per cent of cases to population is, however, very small.

Many persons in the different stages of the disease come from abroad hoping for relief from the climate. Most of them come too late, and death is if anything hastened by the fatigue of the journey and the change from home comforts to hotel life. Persons with only a predisposition to the disease, or still in its early stages, especially if they go to the Mission Valley, or live in the region of the foothills, are often much benefited. I am satisfied that the localities mentioned offer to such persons a climate unequalled upon the coast. The warm, dry atmosphere, free from the dampness and chill of the sea, and yet near enough to be preserved from excessive heat, is far superior to the air of either Santa Barbara or San Diego. The peculiarity of the Los Angeles country is, that it is a broad, deep valley, facing upon the ocean, so that while its foothills and its interior are tempered by the sea breeze, they are still far enough from the coast for the air to become warm and dry before reaching them. The invalid or immigrant has these advantages too, while remaining in what is the center of business and population of Southern California.

Back of Los Angeles, and separated from the sea by the continuation of the Sierras, but entered through the San Gorgaria Pass, is the head of the Colorado Desert. With its heated atmosphere, almost devoid of moisture, and its hot springs, it will in the future be one of the greatest resorts for the relief of chronic rheumatism. The line of the Southern Pacific Railroad, now building from Los Angeles, runs directly across the upper end of the desert.

The well known healthfulness of the climate of Los Angeles has drawn a constant stream of the sick and infirm from the upper portion of the State, and from the East. In addition to these, the mining interior and Arizona send many of their diseased and disabled here for treatment. These facts explain a mortality that otherwise might seem too high. It is only by carefully classifying the deaths, and registering those which are the natural termination of disease brought here, that the true mortality is established. When this is done, the per cent is found to be very small.

REPORT

OF THE COMMITTEE APPOINTED JULY NINETEENTH, EIGHTEEN HUNDRED
AND SEVENTY-TWO, TO INQUIRE INTO THE CAUSES OF ENDEMIC
DYSENTERY IN SAN JOAQUIN VALLEY.

By F. WALTON TODD, M. D., of STOCKTON.

The County of San Joaquin is about centrally divided by the thirty-eighth parallel of north latitude. It had, in eighteen hundred and seventy, an aggregate population of twenty-one thousand and fifty, and an area of nine hundred and sixty thousand acres of land, of which six hundred and twenty-one thousand acres is set down as arable; two hundred and sixty-four thousand as swamp and overflowed; and seventy-five thousand as mountain or hill land. Of the arable land, eighty thousand acres are of adobe soil, sixty thousand red sandy land, and sixty thousand alluvium. The remainder is not classified, but much of it lies in and along the foothills, and is a reddish loam filled with pebbles.

The watercourses are the Mokelumne, the Calaveras, the San Joaquin, Mormon, and French Camp Sloughs. These streams do not overflow their banks except in extremely wet seasons, and then they subside within a few hours after the storm has terminated which caused them to overflow. They all rise in the Sierra Nevada Mountains, and after a tortuous course of many miles through the low tule lands, find outlets by the San Joaquin River into Suisun Bay, on the north west, except the Mokelumne, which debouches into the Sacramento. Their water is nowhere used for drinking, and very little of it for irrigating purposes. The water used for drinking is entirely obtained from wells, and is very different in quality in different parts of the county. That in the adobe lands is from wells ranging from ten to thirty feet in depth, and is hard, soon forming incrustations of carb. lime on vessels in which it is boiled. The wells in the red sandy lands are from sixteen to thirty feet deep, and the water is softer. The City of Stockton is supplied mostly from wells of from one hundred and forty to two hundred feet deep, and an artesian well one thousand feet deep. The water is soft and is found in a gravel bed, underlying a blue and yellow clay, one thousand feet below the adobe or surface soil. Throughout the valley during the Summer or Fall months, regular trade winds blow day and night from the northwest. At times these winds blow harder than at others (as the winds at San Francisco are mild or not), and these exert a very great influence in modifying the temperature, not of Stockton alone, but the surrounding country, until they have become heated by passing over the arid sand plains. The evenings and nights are consequently much cooler than the days, and the average daily difference of temperature for the month of May last, at the depot of the Central Pacific Railroad, at Stockton, was a fraction over seventeen degrees between the hours of two and nine P. M. For June it was more than sixteen and one half degrees, and for July, nearly thirteen degrees. It will thus be seen that as the season advances the extremes of temperature grow less.

For the last three years dysentery has prevailed, to quite a considerable extent, throughout San Joaquin County. In Stockton there has not only been a good deal of it, but, as will appear, it has been attended with fatal results, and has been almost entirely confined to the months of May, June, and July. I have not been able to obtain statistics for the two past years, and by no means full returns for the present, even for the City of Stockton, but I am prepared to-day to report for the months of May, June, July, and August, a total of two hundred and fifty-one cases. Of these, ninety occurred in May, eighty-five in June, fifty-five in July, and twenty-one in August. All, except sixty-three of them, were reported by Stockton physicians, and do not embrace the cases of even all the leading members of the profession. It is a startling fact that of these two hundred and fifty-one cases, thirty-three resulted fatally, being one in $7\frac{2}{3}$; twenty-five of them were children, and eight adults—the latter being mostly from the Insane Asylum, where there were fifty-two cases. My inquiries have extended to all the different tellural districts, and none seem to have been exempt. There seems to have been as many cases occurring in the rolling, sandy, and pebbly regions, as nearer the watercourses and on the black lands, and, if possible, they were the most malignant. Some of the cases occurred in houses overshadowed by vines and shade trees, having damp floors, from being near the ground, without proper ventilation underneath; while others, equally numerous and severe, have been found on the open plains, in houses high above the ground, without a tree or vine near, and with a free circulation of air beneath them; and still others have been found in houses under which there were cellars filled with fetid water. In some of the families, in both town and country, the disease has successively attacked every member—adults and children—and in one, two of the nurses suffered severe attacks.

In my investigations as to the causes which have produced this disease, in a region of country forty miles long and twenty miles wide, so diversified in its physical characteristics, candor requires me to confess that a theory framed to apply to one section has been overthrown by facts furnished by another, and a careful inquiry has failed to reveal any local cause whatever adequate to a satisfactory explanation of its prevalence. But the investigation is not altogether barren of results. It will be seen, by what has been already said, that there were very great vicissitudes of temperature at the Stockton depot between the hours of two and nine P. M., and between the latter hour and three A. M., I do not doubt it was equally as great. For the month of May, the average difference was seventeen degrees in seven hours, and during this month ninety cases are reported; for June, the difference was sixteen and a half degrees, and eighty-five cases; for July, the extremes were still less, nearly thirteen degrees, and the number of cases still less, viz: fifty-five; for August, the number of cases was only twenty-one. These seem to me to demonstrate the fact that the number of cases bear a relative proportion to the extremes of heat between the day and night; and, as this cause was operative in all parts of the county, it furnishes, to my mind, the only satisfactory solution of the question: What is the predisposing cause of dysentery in San Joaquin County?

Sir Thomas Watson, in summing up the causes of dysentery, says: "In respect to this, as to other bowel affections, a high diurnal temperature of the air appears to be the predisposing, and, exposure to cold, the exciting cause." More than one of our most intelligent physicians have expressed to me the same opinion; while others, reasoning from

effect to cause, have ascribed its prevalence to the influence of malaria. This I regard as inconclusive, for the reason that throughout our valley acute diseases of every kind observe greater or less periodicity, and demand quinine in their treatment; and then, when malaria abounds, we have almost no dysentery, as in August, September, and October. While I feel confident that the one assigned above—that is, vicissitudes of temperature—is the true predisposing cause, I am sure that we have many exciting causes, such as the imprudent indulgence of green or stale fruits, and other indigestible substances, teething, and improper clothing.

The methods of treating this formidable disease have been almost as numerous as there are different physicians. With some, it has seemed purely experimental; that of others, tentative; and, again, heroic; and some gentlemen have made their treatment conform to certain theories. One of them, to inquiries of mine upon the subject, said, "that he was in the habit of opening the treatment of his cases with a saline cathartic, in order," as he said, "to relieve the capillaries of the colon and rectum of an undue afflux of blood," and I fully recognize the wisdom of the procedure, for it must be in this way, and not by the removal of offending ingesta alone, that castor oil and rhubarb exert their salutary power. Several others, myself among the number, think that in heroic doses of ipecacuanha we have a most invaluable remedy. Of the two hundred and fifty one cases reported, I treated twenty-two, without the loss of a single case; and I ascribe this good result, in a great degree, to the use of ipecac., in doses of from five to twenty grains, according to the age of the patient, given every five hours, preceded by laudanum, and, sometimes, a mustard cataplasm. Some of these cases obstinately persisted, after a full and fair trial of the remedy—as has been the case in former years—but, it failing, a resort to castor oil and turpentine, with opium, and sometimes quinine, have accomplished what the ipecac. failed to do. The stomach soon acquires tolerance of the remedy in large doses, and I have been much surprised to find how soon alvine evacuations have followed upon its use.

There is no disease in which one should bear in mind the wise maxim, "*Nimia cura medici*," more than in the treatment of this; and, at the same time, there is none where the temptation to be constantly doing something is greater. The suffering patient, and his friends, if not the doctor, think that if only the operations were checked all would be right. They do not consider that the evacuations—a mere effect—do not constitute the disease; that a local inflammation, which may be sufficient to arouse a fearful amount of constitutional disturbance, together with the continued operation of the predisposing and exciting causes, are of paramount importance in the consideration of the case. This inflammation was formerly treated by active antiphlogistic means.

May not the high rate of mortality in San Joaquin County—one in every seven, and a fraction over—be, to some extent, due to a want of general and local bleeding? We find the anus in many of these cases pouting and patulous, and unable to retain either injections or suppositories. Surely the application of a few leeches would not come amiss under such circumstances. But against the indiscriminate use of astringents, I desire to enter a solemn protest. Their administration not only consumes valuable time, but they do a positive mischief. The fact should never be lost sight of, that the disease is inflammatory, and, to be treated successfully, must be combatted by such remedies as will subdue inflammation.

REPORT ON INTOXICATING LIQUORS.

By HENRY GIBBONS, SEN., M. D., SAN FRANCISCO.

The Act establishing the State Board of Health, contains the following section:

"SEC. 3. It shall be the duty of the Board, and they are hereby instructed, to examine into and report what, in their best judgment, is the effect of the use of intoxicating liquor, as a beverage, upon the industry, prosperity, happiness, health, and lives of the citizens of the State; also, what legislation, if any, is necessary in the premises."

Under this provision, it seems obligatory on the Board to present a report on the subject. My colleagues have assigned to me that duty, and I approach it with reluctance, as the magnitude and extent of the subject are too great to be properly handled in the narrow limits to which I must be confined. For this reason, I will attempt nothing more than an outline of the leading points.

FIRST.—*The effect on the industry and prosperity of the citizens.*

From statistics furnished by the Commissioners of Internal Revenue, and from other sources of information, it has been estimated that the amount paid yearly by the people of the United States for intoxicating drinks, exceeds one thousand millions of dollars. Enormous as these figures appear, they are probably within the limits of truth. Of this sum, the proportion for California is not far from twenty millions of dollars. If one third of the inhabitants of the State, that is to say, two hundred thousand persons, were each to spend thirty cents a day for liquors, the gross amount expended by them in a year would exceed twenty millions of dollars.

Much of this vast expenditure comes from the laboring classes, and is the wages of industry. It is spent for a needless luxury, to say the least. In the aggregate, it would be decidedly better for those who spend it, were it thrown into the bottom of the sea. But what if it were devoted to the comfort and welfare of their families, or invested in houses and lands? What would be the result in a single year? And what in five or ten years? The answer to these questions will bring into view some of the effects of intoxicating liquors on the industry and prosperity of the State.

But the loss of the money is but a small portion of the evil. Loss of time, loss of place, loss of employment, loss of home, loss of character, loss of liberty, loss of health, loss of life, all follow in train. An army of strong and able men are turned from the path of industry and sobriety,

and instead of adding to the prosperity and wealth of the State, become a burden to the body politic, and a source of taxation to the commonwealth. In this young State of ours, there are probably at the present moment not less than six thousand criminals, paupers, and lunatics, in the various prisons and public institutions, who owe their degradation, misery, and ruin to intoxicating drink.

SECOND.—*The effect on the happiness of the citizens of the State.*

This is answered in part under the previous head. To dwell on it would be superfluous. One of the most eminent medical writers of Great Britain (Benjamin Parkes, M. D., F. R. S.), has declared: "If alcohol were unknown, half the sin and three fourths of the poverty and unhappiness in this world would disappear." Of all countries in the world, California stands most in need of the sanctifying influence of the ties of home and family. To what extent those ties are sundered through intemperance, is well known to every observant and feeling person.

THIRD.—*The effect on the health and lives of the citizens of the State.*

Every man who can look back through twenty years of California life, is able to bear witness to the havoc committed by strong drink in the ranks of our great men. Did I dare, I could read a long roll of names familiar to us all, of men who have been slaughtered by the demon; statesmen, jurists, professional men, men who have at once honored and disgraced the highest official stations—men of learning, of genius, of eloquence. It is painful to reflect how much the State has suffered by the loss of so many of its most valuable citizens.

In the view of many persons, the industry and prosperity of the State are greatly hindered by oppressive taxation, by increase of the cost of certain articles through the tariff, and by Chinese labor. Compare the loss sustained by these alleged grievances with that resulting directly from the purchase of intoxicating liquors. If the immense drain which flows from the pockets of the industrial classes of California for strong drinks were suspended, the aggregate saving would refund to them the total amount lost through Chinese labor and through tariff duties, and would, in addition, pay all their taxes and leave a balance large enough, by the accumulation of a few years, to purchase a homestead for every family.

It is conceded very generally by men who have given the subject their thoughtful and serious consideration, that intoxicating liquors are not necessary for persons in health; that, on the other hand, they are positively injurious; and, that their value as a medicine, to be used in sickness, is impaired or destroyed by their common use in health. They predispose to disease, instead of preventing it; and they induce and aggravate many forms of sickness, and render them more difficult of cure. They are the direct cause of a large number of deaths, and the indirect cause of a still larger number. Their noxious effects are handed down from parent to offspring, deteriorating the race in body and mind from generation to generation by the inheritance of disease and imbecility. It may be safely averred, that all other evil influences against which society seeks to protect itself, such as over-crowding, defective drainage, unwholesome food, and injurious habits in general, do not, in the

aggregate, so much disturb and destroy the public health and shorten the duration of life. Most assuredly an evil of such magnitude ought to alarm and arouse to defensive action every good citizen, every patriot, every legislator.

FOURTH.—*What legislation, if any, is necessary in the premises?*

So manifest has been the pernicious influence of strong drinks in all ages and all countries, that scarcely any civilized people of ancient or modern times has tolerated their indiscriminate sale. Human ingenuity has been tortured to contrive laws by which to restrain the traffic within given limits. It is one thing to enact laws, another to execute them; and the execution of laws on this subject appears beset with extraordinary difficulties. A business which transfers from the pockets of consumers to those of distributors upwards of a thousand millions of dollars per annum, is more likely to control legislation than to be controlled by it. The interests of the many, who sell, and the appetites of the many, who drink, form a combination too powerful to be overcome or seriously restrained either by moral or legal agencies. And yet there is a general demand for some form of legislation which will suppress the indiscriminate sale of liquors, and relieve society from a portion, at least, of the resultant evils.

An effort is on foot to induce the Legislature of California to enact a "local option" law, by which a majority of the voters of a county or district may determine by vote whether liquors shall be sold in said county or district; also, a law rendering the seller of liquor liable for damages resulting from its use. Laws of this kind are in force in some of the Atlantic States. The "local option" law involves the principle of "prohibition" to a limited extent. The advocates of prohibition complain that they are very generally misrepresented by the public press, on two points: first, by charging them with depending on the force of law for the correction of morals, and, second, by imputing to them the attempt to determine by law what man shall eat and drink.

There is nothing more unjust than the first charge. Those who aim at legislation are almost the only individuals who labor in the moral field. They do not propose to substitute law for reason and argument, but to bring it to bear where moral agencies fail. The fact is universally recognized that a large proportion of individuals who have fallen into habits of intemperance cannot be permanently reclaimed as long as they have access to the means of indulgence. Our Courts, and prisons, and hospitals, and lunatic asylums, are thronged with men and women of this class, who have lost the power of self-control, and who will never cease to be pests to society except through physical restraint. For the benefit of these persons, and their families, and for the protection of society from their vicious contamination, and from the enormous burden imposed on it by their vices, the friends of humanity, whilst they continue, as in the past, the industrious employment of moral influences on society at large, and especially on the rising generation, would invoke the aid of law to interpose the only possible remedy by depriving them of the means of indulgence.

As to the other objection urged against prohibitory legislation, that it prescribes what men shall or shall not eat or drink, the answer is that it does not, except constructively; that society has an undoubted right to prohibit the sale and distribution of anything noxious; that the most noxious of all articles of traffic is that here in question. Thus,

the law prohibits the sale of tainted meats, of immature veal, of the flesh of diseased animals. No one disputes this right, or attempts to shift the issue by pronouncing it a sumptuary law, which prohibits an epicure from eating such meats as he might prefer.

The question of intemperance never before attracted as much attention as at present. Nearly all civilized nations have awakened to its extent and dangers, and are devising means for its suppression. How to restrain the distribution and consumption of intoxicating drink is fast becoming the great problem of modern legislation. Men who have most studied the subject, who have labored in the field of reform, who have devoted themselves to the service of humanity, are gradually concentrating their convictions and their efforts on the principle of prohibition, as the only effectual basis of jurisprudence. Knowing that legislation is futile unless supported by public sentiment, they do not at once aim at the final purpose, but seek first to educate the people up to the proper standard, and in the meantime to secure all feasible palliative measures. It is time for legislators everywhere to contemplate the important subject.

ADULTERATION OF FOOD, DRINKS, AND DRUGS.

BY JOS. F. MONTGOMERY, M. D., SACRAMENTO.

Of the many social problems presented to the philanthropist, the scientist, the political economist, or the sanitarian, for consideration and solution, none excel in importance that of the adulteration of food, drinks, and drugs. The first of these articles is as indispensable to life as air or water, and the others, under certain conditions or circumstances, are often but little less so. This being the case, it is essential to the health of the individual, and consequently to the welfare of the nation, that all these should be pure and wholesome. A healthy, industrious, and virtuous population, possessed of a well developed physique, and ample mental and moral force, and therefore capable, under proper training and government, of accomplishing much in the way of every variety of production, constitute a nation's chief wealth; and it is, therefore, the highest duty of Government to protect its citizens, with a jealous eye and firm hand, regardless of labor or of cost, from every species of fraud, wrong, or oppression that the vicious, the selfish, or the covetous may seek to practice upon them—the scope and purpose of such duty being to restrain effectively and punish severely, at every hazard, all who may scheme and contrive to corruptly prey upon and defraud the innocent public, often even to the extent of wickedly periling both health and life, to gratify their inordinate and atrocious greed.

It is of the highest importance, indeed, that our food should be genuine and wholesome, although even against adulteration of food the robust constitution may be able to maintain its health; but should this become impaired, whether by adulteration itself, or by other causes, it is absolutely indispensable that those remedial agents, by the aid of which the healthy actions are restored, should be positively what they are represented to be. It is a hardship, truly, that the practice of adulteration should deprive a man of his health, and a greater one that the nefarious practice should render inert the remedies which would assist in restoring to him that inestimable blessing. Of what use is opium that will not allay pain, of quinine, that will not arrest fever, or of ipecacuanha, that will not vomit? And yet such drugs are sold and relied on, to the peril of life.

The commercial, physiological, and chemical aspects of this question are now pretty well understood with us, owing, among other agencies, to the researches and published works of certain British authors, some of whose publications are the only books on the subject we have been able to obtain, save a few numbers of several periodicals published in this country. From these we learn that, though science has been impressed into the service of falsification, and great ingenuity has been

displayed in the practice of such deception, yet science, in the hands of the microscopical and chemical expert, has been also, in most cases, equal to the task of detection and exposure.

It has been well remarked that of all evils which afflict us, those that are cumulative or gradual are the most dangerous, because they are insidious, and therefore less preventable, their cause being obscure. Such an evil of vast magnitude is the one before us—the adulteration of food and drugs, which, by excluding nutritive or medicinal substances, or by introducing those that are injurious, does harm both negatively and positively. When it is remembered that most of these adulterations cannot be detected with our unaided senses, but require considerable scientific knowledge, some legal protection is indispensable, especially in the case of the poor.

As an example of the universality of adulteration, I shall quote a paragraph from the work of Dr. Hassall, of Dublin, who seems to have made the subject specially his own. After giving a list of the deleterious articles used for adulteration, he says:

“It may so happen, and it doubtless does sometimes occur, that the same person, in the course of a single day, receives into his stomach some eight or ten of the articles above enumerated. Thus, with the potted meats, and fish, anchovies, red sauces, or cayenne, taken at breakfast, he would consume more or less bole Armenian, Venetian red, red lead, or even bisulphuret of mercury. At dinner, with his curry or cayenne, he would run the chances of a second dose of lead or mercury; with the pickles, bottled fruits and vegetables, he would be nearly sure to have copper administered to him; while if he partook of *bon bons* at dessert, there is no telling what number of poisonous pigments he might consume. Again, in his tea, of mixed or green, he would certainly not escape without the administration of a little Prussian blue, and it might be worse things. If he were a snuff-taker, he would be pretty sure to be putting up his nostrils from time to time small quantities of either some ferruginous earth, bichromate of potash, chromate of lead, or red lead; finally, if he indulged himself with a glass or so of grog before going to bed, he would incur the risk of having the coats of his stomach burned and irritated with the tincture of capsicum or essence of cayenne. If an invalid, his condition would be still worse; for then, in all probability, he would be deprived of much of the benefit of the skill of his physician, through the dilution and sophistication to which the remedies administered for his relief were subjected. This is no fanciful or exaggerated picture, but one based upon the results derived from the repeated analysis of different articles, as furnished to the consumer.”

As an evidence of the correctness of the foregoing picture, I will add the result of some of the observations made by reliable authorities. The following are a few of the results obtained by Professor Cameron:

Of one hundred specimens of milk examined, all contained water only as an adulteration, ranging from twenty to forty-five per cent above the natural amount. The sugars were not adulterated, but contained iron enough to blacken tea, and also the sugar mite. Coffee was found badly ground and stale in many cases. In one case a mixture sold for coffee was proved to consist of roasted wheat, cocoanut dust, and five and a half per cent of millstone grit, no coffee whatever being present. Out of eighty thousand pounds of meat examined, twenty-five thousand pounds was condemned, chiefly because it came from diseased animals.

The North British Daily Mail published an analysis of thirty-five samples of tea bought in Glasgow—only six unadulterated. All were high priced, and none of the six was a sample of green tea. One contained *no tea at all*. The adulterations were iron, plumbago, chalk, China clay, sand, Prussian blue, turmeric, indigo, starch, gypsum, catechu, gum, and leaves of various kinds, elm, oak, willow, poplar, elder, beech, hawthorn, and aloe. The retail vendors he supposed to be generally innocent. The work of adulteration is largely done in China, and is further carried on after the tea has reached Britain, chiefly by the importers and wholesale dealers.

As a striking illustration of the extreme degree to which this fraud is carried, I will cite the allusion made on a certain occasion before the National Association for the Promotion of Social Science, by Dr. Farr, to a famous lot of tea which was found to be adulterated with rice husks and straw, rice blackened with plumbago, silkworm droppings, tea leaves and maggots, iron filings, fragments of limestone, minute seeds, fragments of willow leaves, and husks. But the most startling, because the newest form of adulteration exposed recently, is that of tea, detected by Dr. Letheby, and entitled the Maloo mixture, from its resemblance to a species of tan used on the Maloo racecourse. The leaves of this delectable compound are those of exhausted tea, quite rotten, and most offensive, from the fact that in Shanghai pigs and dogs freely walk amongst the decomposed heaps. But in addition to this, the leaves of a certain willow plant are extensively introduced; and the *Food Journal* states that thirty thousand pounds worth of this wretched compound was lately on its way to England, to be manipulated and treated, or passed through certain processes, to conceal the fraud, and then sold as genuine tea. It is difficult to conceive that the depravity of man could be so profound and damning as to allow the worst of the species to perpetrate such an atrocious wrong. And yet, such things are done with impunity, and cunning rascals, because of the possession of their ill-gotten grains, are permitted, without due scrutiny, to enter decent society, therein to contaminate, more or less, those they may encounter.

These examples are taken from foreign sources, but similar may be found in this country. Indeed, from the slight investigation we have been able to make of such practices in the United States, our adulterators seem to display more ingenuity than any of their brethren abroad. In the *American Grocer*, published in New York, we find accounts of frauds practiced in canning and packing, that, at least, equal in perfidy any perpetrated elsewhere. For instance, we find that dried peas are soaked, passed through some process, and then canned and labeled "green peas," and sold as such. In consequence, consumers have given up the use of the domestic production, and pay their grocer nearly double price for a can of French peas of half the size. Thus do these unprincipled packers strike at home industry and hazard the entire destruction of the trade in American canned peas. Again, dried corn is soaked and packed, by the same process as the peas, and sold as green corn. So, also, dried Lima beans.

The *Pharmacist and Good Health*, published in Chicago, also give examples of unscrupulous and adroit frauds. For instance, an article purporting to be neatsfoot oil contained twenty-five per cent. of kerosene or petroleum. But the most marvelous ingenuity displayed in the tricks of the wily adulterator is shown in the following instance mentioned in *Good Health*. Some persons, knowing that most ground coffee is

adulterated, never buy the ground article, but always procure the whole beans, which they either grind themselves or get ground. To meet this case, the adulterator makes up a paste of ground chicory, pea flour, and other cheap materials, and moulds it, by machinery, into the forms of the beans. The artificial beans are rolled in a barrel until smooth, roasted to the proper color, and mixed with a small proportion of genuine beans to give them the true coffee flavor. The fraud, if suspected, can easily be detected; but this example shows strikingly the ingenuity and painstaking of the fraudulent classes, who often spend, in efforts to cheat, an amount of labor and inventive skill that, if devoted to some honest undertaking, would be certain to insure success.

It is stated somewhere that ten thousand quarts, or twenty-five hundred gallons, of swill-milk is sold daily in the upper wards of Philadelphia, a limited section only of the city. And it is well known that the large mortality of infants in our cities and towns is due, in a great measure, to this poisonous article.

Without citing other like examples that might be adduced, we are compelled to admit—both from what we learn from the authorities, and from what we discover in our daily personal experience—that the sale of unwholesome provisions, and the adulteration and deterioration of food, is a common practice. It is so common, indeed, that we are tempted to assert that it seems to have become established almost as the rule, where such a thing is practicable, rather than the exception only, as we would naturally suppose to be the case. This is manifested in the character of many of the articles of food that we purchase, even from the grocery stores of the best repute, and in the viands served to us at the tables of some of the most expensive hotels and boarding houses in the country. The meats, frequently, are rather unsavory than otherwise, and, in some instances, are absolutely offensive, whether they be fresh or cured; the butter is often distasteful and unwholesome; the bread insipid or unpleasant to the taste from staleness, impure material of which it is made, or faulty cooking; the tea is often intolerable; the coffee unrecognizable, owing to the free admixture of that abominable production, chicory, or some other, perhaps worse, impurity; and even the milk, in this land of plenty, is diluted and depraved to such a degree as to deter consumers from its use, although, when pure, it is so acceptable to many, and is so invaluable to the feeble, the dyspeptic, or the sick—particularly the delicate or diseased infant, when deprived of or denied its natural pabulum supplied by the human breast. This is truly a monstrous, an inhuman, a disgraceful evil that should no longer be tolerated, but should by all means be abated.

As some evidence of the correctness, in many cases, of the statements or representations made, it may be added that unquestioned evidence is at hand to show that the following adulterations have been detected here: Cream of tartar is adulterated with one fourth part of white earth, and thus adulterated it is extensively employed as an ingredient in bread. Carbonate of ammonia is added to sour flour to conceal its bad quality, and alum is added to render bread light and fair. Sand is often met with in brown sugar. Ground coffee, besides containing a large percentage of chicory, contains also the flour of roasted beans and barley. A lot of tea, lately imported from China, contained the paper of that country, reduced to fine particles and colored with a solution of a salt of copper. The bogus or sham butter, termed "oleomargarine," which has already been manufactured in San Francisco, is now manu-

factured chiefly of beef suet and sour milk, and, by careful management, is rendered tolerant, though not agreeable, to the taste; but the probability is, that after establishing for it some favorable reputation, the manufacturer will not scruple to employ any cheap or refuse grease, however foul, as a substitute for the suet of the cow, and thus impose upon the public a wicked and revolting fraud. Butter, when rancid, of a pale color, and really unfit for use, has its appearance and flavor improved by the addition of an article termed "annatto," which, in a crude or unmixed state, is most disgusting to look upon. The several powders manufactured and sold as a substitute for eggs, or as "concentrated egg," are found to have a very injurious effect upon the digestive organs. Many of the bottled pickles are kept in vinegar made chiefly of sulphuric acid, as the leading ingredient, with verdigris, acetate of copper, an active poison, added, to impart to them a beautiful green color. The usual trick of the milkmen is to add a mixture of chalk and water to increase the bulk of their stock; and some liquors are adulterated with acetic acid, various ethers, and other articles of like nature, besides strychnine, according to the fancy of the manufacturer.

We may repeat, or assume further, that the evil here being treated is so widespread as to be almost universal in its operation; that it is sadly injurious to the health of the people, entailing upon them the horrors of dyspepsia, the ordinary acute and chronic troubles of the digestive organs, and even the development of scrofulous and tubercular diseases, owing to the debility, wasting, and general impairment of vital force, resulting from inadequate nourishment.

Now, it being established that this practice is clearly fraudulent, and in many ways detrimental, and it being shown, also, that it is capable, as a rule, of being discovered by means already alluded to, it remains for us to inquire why it is that in these days of advancement it still exists as heretofore, and why it is not suppressed? Laws thus far have been defective, and too much apathy and indifference have existed in the public mind, partly from ignorance and partly from the vague idea each one has that he is less mortal than his neighbor, and therefore does not take the danger home to himself.

"There would be doubtless more interest felt," says Mr. Phillips Bevan, "if the people would but take the trouble to reflect what adulteration of our food means. It does not end with an unpleasant taste or an unappetizing meal; it is far beyond that; it means the gradual poisoning of the people, the lowering of the physique of a whole nation, the stunting of our growth, the rapid deterioration of our constitution; while morally, it means a daily and constant fraud, practiced by the seller on the buyer; a cheating which, begun with the smallest trifle, soon makes it so callous that it is applied with equally comfortable conscience to things of greater importance. In fact, it is one of those insidious sappings of a nation's honesty, of which we have, unfortunately, learnt of late years to make so light. Like the camel, the English nation bears a good deal, and is even persuaded that it likes it; and perhaps nothing shows the difficulty of dealing with such a question as this, that not only is the Government slow to move in the matter, but there are even men in high places who are more ready to defend the system than to condemn it, by saying that it is not so bad as it might be; that the principles of free trade will apply to this as well as to other things; that the buyer must look to himself, and so on. But free trade was never intended to apply to any system which has untruth stamped upon it, and it is the first duty of Government to protect its people in every

possible way. Another and more plausible argument is, that adulteration arises from the fault of the people themselves, who will persist in buying the cheapest articles, so cheap, indeed, that everybody knows that they cannot be real, or good, for the money. But in answer to this, I would say, that though the people do seek to buy in the cheapest market, they do so in ignorance of the character of the goods, and under the conviction that they are what they are represented to be, and I feel certain that, if in some Utopian fit of honesty, the vendors were to label their goods with a true description of their composition, the buyers would have no more of them, cheap as they are. And were there a certainty of detection and punishment, we should find that the sellers of adulterated goods would be very careful how they offered them. We should find, also, that the mutual relations between the seller and the consumer would soon be on a better footing, and nobody would be poorer, while the sanitary condition of the community would be unspeakably benefited. As a sanitary question, indeed, the purity of our food has been strikingly overlooked. No commission, or inquiry, or machinery embracing sanitary subjects can do its work properly without embracing the food question. It is as absolutely necessary as to give us fresh air, good drainage, pure water, or any other sanitary blessing: for what is the use of these if, side by side, we allow of the administration of poison?"

In the discussion that followed the reading of the paper of which the foregoing is an extract, Mr. Rawlinson stated that there was no town where there were not some persons who dealt in meat that was entirely unfit for human food. They bought unsound meat at small price; they bought cows which had died of milk fever, and calves that were not fit for food of any kind.

Mr. Godwin remarked that trade morality throughout England was only very indifferent, and in this observation he included all classes. He would have all such sophisticated beings punished so severely that they would not attempt to repeat their dodges again.

The Mayor of Newcastle said, ordinary people who had not given the question their consideration, could not have the slightest conception of the adulteration carried on in different trades, and he had little doubt that many present were like himself, perfectly astounded at the statements which had been made.

Mr. Sarjeant Cox said there were two questions, namely: What law could meet the difficulty, and how could it be enforced? As a man of experience, in the administration of the law, he believed the only solution of the difficulties was to be found in the destruction of all adulterated articles when discovered, and he argued that this would be more efficacious in procuring the desired end, than making any elaborate law, and the infliction of severe punishment.

Dr. Stevenson McAdam said, on one occasion, he tested some flour and found it contained twenty-five per cent of chalk; and, on another, he analysed a bottle of port wine, and found it to be strongly adulterated with logwood and cane sugar instead of grape sugar.

Mr. P. H. Holland contended that in all cases it was the business and imperative duty of tradesmen to see that their weights and measures were according to the standard. If the latter condition were not complied with, the offenders were fined; and why not enforce a penalty on the seller of adulterated articles; the two cases were analogous.

Mr. John Hancock remarked that summary punishment was necessary, without the chance of procrastination by appeal.

These quotations are made to give an insight into the views of the eminent men, who have paid special attention to this interesting subject, that we may profit by their experience, for the evils portrayed as existing elsewhere, exist here also, and the same laws found to be most effective in one latitude or country would prove alike so in another, suitable allowances and modifications being made to adapt them to the peculiar needs or circumstances of any particular region or community.

In modern times, or of late years, the laws have been too lax and lenient to deter the unscrupulous and sordid from the commission of these acts, and such have, for a long time, preyed at will upon the general public, without check or hindrance, until the evils have become well-nigh intolerable; and the heretofore patient, submissive, careless people have at last given indications of impatience, and are beginning to consider their real condition, and to demand suitable redress of their grievances and wrongs. At this crisis, it is well, therefore, that some more attention should be paid here to the public health, and measures be taken to insure wholesome supplies of food and drink, and pure drugs, to all ages, classes, and conditions of the population.

In olden time, in London and elsewhere, it is related by Ictheby, remedies for the misdemeanors alluded to were quick and effectual. For example, there were strict regulations concerning the manner in which the business of the baker was to be conducted, and in default, he was drawn through the streets upon a hurdle, with the faulty loaf hanging from his neck; and for a second offense, he was drawn in the same manner, and then placed in the pillory. A like punishment was awarded to butchers and vintners for fraudulent dealings; and an instance is related of a butcher who was drawn through the streets for selling measly bacon, and then set in the pillory with two large pieces of his measly meat over his head, and a writing, which set forth his crimes. Many cases were recorded where the pillory or the thew were awarded for selling putrid meat, fish, or poultry, or for the unlawful dealings of bakers, vintners, or wine drawers.

Anything and everything necessary to eradicate these heinous crimes, and deter the infamous robbers and murderers from prosecuting further their nefarious trade, we claim would be fully justifiable. Of a verity, we have degenerated sadly in these respects, so that now such practices are committed with impunity, and go unnoticed and unpunished. Better far, we will repeat, for the health and general welfare of the public, that we should revive the rude penal remedies of our long ago fathers, since it is recorded that they were effective in arresting the wicked and diabolical evils they were designed to cure, than that they should be longer endured to our incalculable injury.

Laws thus far, as a general thing, have been defective in this, that they are permissive, and leave it to the purchaser or consumer to complain and pay a fee for analysis, etc., instead of appointing officers whose special duty it shall be to take action in seizing and examining any article he may suspect, or have reason to suppose, to be impure; his compensation being paid out of the public treasury, the burden upon which may be lightened by the fines and penalties imposed on the guilty parties detected in their fraudulent practices.

Dr. Hassall defines adulteration thus: "It consists in the intentional addition to an article, for the purposes of gain or deception, of any sub-

stance or substances the presence of which is not acknowledged in the name under which the article is sold."

It seems to have been established or accepted as best, where the test has been made, that an officer should be appointed, skilled both as a microscopist and analyst, who should have no private *animus*, and that he should go around and examine samples, selecting them at random, and if he find anything wrong, to make the fact known.

Mr. Bevan stated that in Galveston strong public opinion had been created against adulteration, so that the reputation of the dealer was thought more of than the penalty. In Georgia, the laws were very severe, and the knowledge that the penalties would be inflicted acted preventively. In Leipsic, there were general complaints that the laws were not enforced; the cause of this being that it was everybody's business, and consequently, nobody's. In Prussia, the laws were very severe and very seldom violated. These very few words showed whether the law was being actively worked or not. The great obstacle, in many instances, in the way of carrying out the law, was sympathy for the tradesman; but he was sure a strict enforcement of the statute would create a purer state of public opinion. The custom in France is, to seize the adulterated article, to fine and imprison the offender, to close his shop during the imprisonment, and to publish on his own shutters his name, offense, and punishment. A few cases of this sort would be highly calculated, anywhere, to put a stop to adulteration.

Looking to the enormity of the offense, Mr. Postage contended that the adulteration of food, drink, and drugs ought to be felony, and knowingly selling adulterated food and drugs a misdemeanor. The following propositions contain, in his opinion, the remedy for adulteration, by: First—Making it an offense punishable by fine and imprisonment. Second—By the compulsory appointment of analysts, to whom the inspectors, the public, and traders could refer articles for examination and analysis. Third—The suppression by those officers, to commence with, of poisons and injurious adulteration of food and drink, and the adulteration of drugs. Fourth—By the use of a staff of inspectors to receive the articles and to institute proceedings before the magistrates on receiving reports of detected adulteration. Fifth—by giving further and summary jurisdiction to the magistrates in all cases of trade frauds. Sixth—By the appointment of Government Commissioners to assist the local authorities in carrying out and enforcing the proposed law against adulteration. Seventh—By the inspection of manufactories for the detection of the adulteration, and the punishment of the offenders. Eighth—By keeping the public informed of the nature and character of the adulteration practiced in food, drink, and drugs, by publicly reading the quarterly reports of the public analyst before the corporations and other authorities appointing them. Ninth—By the seizure of all pernicious and poisonous admixtures and ingredients used in the adulteration of food, drinks, or drugs found on the premises of the adulterators. The intention of the adulterator was clear enough—it was to deceive and to defraud. Let, then, the punishment be clear, decided, and adequate. Fines were of small use in such a matter; imprisonment alone would deter respectable criminals from a practice which leads rapidly to ill-gotten wealth.

The result of the operation of these laws, after testing and amending them for years, although still defective, has been, we find, so clearly beneficial as to encourage earnest perseverance in perfecting and enforcing such measures everywhere.

We have not been able, as yet, after diligent effort, to obtain a copy of any law, touching this evil, enacted in any of the countries from whence information relating to this subject has reached us; but it is still our purpose to obtain, if practicable, such copies in time to frame a bill of similar character, to be presented to the next Legislature. But should we fail in this effort, still such hints and suggestions may be gathered from this paper as may be sufficient to enable a skillful draftsman of bills to frame one to meet the requirements of our condition, and to correct the wrongs about which we have said so much.

ANIMAL FOOD.

[TRANSLATED FROM THE GERMAN, BY L. C. LANE, M. D., SAN FRANCISCO.]

With the exception of milk and its derivatives, butter and cheese, and the eggs of poultry, all articles of nourishment derived from the animal kingdom are included under this head.

The subject interests us in the following respects:

- (A)—In regard to the *quantity* of disposable raw material;
- (B)—In regard to the *quality* of the same;
- (C)—In regard to the nature of the method of its preservation;
- (D)—In regard to its preparation and preservation for the market.

(A)—*Is the disposable quantity of animal food indeed a matter of interest to us?*

According to all observation, animal food is not indispensable to human existence. Thousands of mankind, who have but seldom partaken of animal food, have, nevertheless, enjoyed their full bodily powers, and reached an advanced age. The human organism is able to extract nutriment from articles of animal food, as well, also, as from nourishing articles different in nature. It is adapted to the consumption of *various* nutritive articles, but it is not to be inferred hence that *all* these means of nourishment, both animal and other food, are necessary to the support of the human body. It is, however, apparently as little to be doubted that the use of animal food is a means of increasing, in every respect, the active bodily powers of man. By the mixing of animal food in the alimentary substances, the muscles and brain receive increased power of activity, and are rendered capable of greater resistance to many morbid influences. Hence, it is well worth while to provide man with animal food.

What quantity of such food is needed by man in order that he may reach the highest degree of active power, and whether he should partake daily of such nourishment, depends wholly upon the individual. With many it suffices apparently to enjoy, according to the appetite, animal food a few times during the week; others, in order to attain to the highest degree of active power of which they are capable, should partake of it every day; still others, several times a day.

The increasing of the functional powers of the muscles and brain is, moreover, in itself a matter which concerns us most nearly. Increased muscular and brain power gives a greater measure of the requisites of normal life than an inferior degree of functional power of the muscles and brain; and still nearer does the increased power of resistance to certain morbid influences concern us.

Thus animal food, considered in its relative quantity to the population, is indisputably a matter of interest to us. There is no difficulty in perceiving the numerous influences controlling the quantity of disposable animal food among any certain population; hence, I will not enter upon an enumeration and estimation of them, but will only call attention to a few points in regard thereto.

The amount of disposable material becomes here and there greatly influenced by unapparent causes; in certain districts of Africa bees cannot be kept, on account of a native fly which quickly kills them (Livingstone); as cities increase in number, the production of swine diminishes. The greater the number of species of animals, which a certain extent of country produces for the nourishment of man, and the more equal the total weights of the different species, so much less is the influence of epizootic diseases in diminishing the quantity of animal food. An epizootic pestilence usually attacks but *one* species of animals, and the loss consequent thereon is much less felt if the above relative proportion of the different species is maintained. With reference to this, it were by no means undesirable to overcome the widespread repugnance to the use of certain animals (horse, etc.,) as food.

The occasional practice among the poor of cities of raising goats, swine, etc., undoubtedly might be encouraged so as to increase the quantity of disposable material for animal food, did not the keeping of them produce infectious influences in the air and in their dwellings.

A knowledge of the principles of the rational theory of stock raising and of rational husbandry, particularly in regard to pasture lands, is, as yet, not widespread; everything tending to the diffusion of this knowledge, effects an increase in the quantity of animal food.

The refuse from many industrial establishments, and also animal waste matter conducted into larger or smaller watercourses, by causing the death of immense quantities of fish, is detrimental to the recent efforts made to increase the amount of animal food by artificial breeding of fish and rational pisciculture.

Different districts vary in their productive resources in regard to animal food; hence there must be the freest possible transportation of the total amount of animal food produced, in order to equalize superfluity and want. Whatever favors the interchange of this material is of public sanitary value.

But this transportation of animal food from one district to another, especially when represented by trade in live stock, has the disadvantage of spreading the contagious diseases of the animals transported—in particular, the cattle-plague and the lung diseases of neat cattle. The preventives to be opposed to this spread of disease by trade in stock, are quarantine, non-importation, etc. Such means of prevention are of the greatest importance, although they tend to interfere with the general supply of animal food. From this point of view, it were most desirable that the export and import of animal food should consist of slaughtered animals only.

Many territories, for instance South America and many parts of Africa, have heretofore exported but a very small quantity of their best animal food, for the reason that the transportation of live stock is not admissible, and the manner in which the slaughtered material is preserved is, thus far, unsatisfactory. Every advance in this latter direction is also an advance in the interest of the public health.

(B)—In regard to the *quality* of animal food, two points are of interest:

1. That it be derived from the greatest possible variety of species;
2. That it be perfectly innoxious.

1. The muscles, brain, spinal marrow, and the substance of the nerves, blood-vessels, and many other parts of the animal, apparently do not essentially differ in their chemical composition; the same is not the case with the blood and the organs of secretion, the former of which is a constituent of different parts of animal food, and the latter are eaten as separate articles of food. It is evident, that, by the continued use of but one species or one kind of animal as food, it is possible to collect in our blood specific substances of a certain kind, which, in their aggregate, may be of ætiological importance, either from the inability of the organs of secretion to carry them away, or in some other manner. It may be that certain diseases or tendencies result from the exclusive or predominant use of fish, pork, etc., as food. As the use of the *different parts* of the *animal* counteracts such effect, so also does the use of *different animals*. Such change we make instinctively, where possible, varying the animal; partaking one day of mutton, the next of beef, again of game, etc.: the same change of parts, no one caring to partake day after day of liver only, kidney, or brain. We are least apt to tire of the muscular parts, which offer the least specific differences.

2. Animal food may acquire noxious qualities for man in the following respects:

(a) It may become chemically noxious through matters *developed* in the animal while alive;

(b) It may become chemically noxious through poisonous matters *introduced* into the animal while alive through poison, food, or other means;

(c) Noxious chemical changes may take place in the animal substance after the death of the animal;

(d) Through parasites attached to the animal substance;

(e) Through certain diseases of the animal in which, as yet, no parasites have been detected;

(f) Through insects which have alighted on the meat.

(a) There are many animals whose flesh, as food for man, has always proved itself poisonous. In regard to the special chemical conditions, nothing has been learned, and but little in regard to the localization of the poison in certain parts, and other important particulars, and this in regard to but few animals; for instance, sucking animals, fish, and invertebrates. In the expedition of Capt. John Ross to the North Pole, the crew of the ship *Victory*, after eating of the *ursus maritimus*, suffered for three or four days from severe headache and desquamation on face, hands, and arms. In Perry's expedition, desquamation also followed the eating of this meat. The Esquimaux eat it without harm, but throw away the liver. The use of the *canis lagobus* as food, also produces an abnormal condition.

The poisonous influence of certain fishes, crustacean and mollusks, often arises from chemical changes in the animal *after death*; in some cases they may have partaken, as food, of substances poisonous to man; in other cases, disease, or certain physiological conditions, as the spawn-

ing period, may have produced poisonous matters. Again, many fishes seem to be always poisonous, and it is often the case that the principal part or all of the poisonous matter is found in the intestinal canal, liver, or eggs. Eels, trout, salmon, and other fish in common use as food, are said to have frequently proved poisonous; the poison in such cases being referred to the keeping of the animals in slime, or to noxious food.

Shell fish have often produced illness, even when cooked. In these, also, this may have been the result of chemical changes after death, of the feeding on noxious substances, disease, or the periodical development of poisonous matter; but in many, the poison may have been present in their normal condition. Of the crustaceans, the *cancer Bernhardus L.* is condemned as food. The *sea tortoise* has also been known to poison.

With many persons, these poisonous articles of nutriment have little or no effect, while with others, they never fail to affect powerfully; on the other hand, there are many which are equally poisonous to all persons. The phenomena resulting from noxious animal food, have always certain features in common, as desquamation, exanthema of the epidermis, etc.; here we have, it may be, under observation, a poisonous fatty matter rather than any other substances. Shell fish have also been found to contain copper, sometimes in considerable quantities; but the ill effects cannot be referred to it alone.

There is no means of proving the noxiousness of fishes or invertebrates, when this does not arise from uncleanness, but by making a trial of them as food for man. It by no means follows that the same substances would have the same effect upon carnivora that might be selected for the experiment, as they would have upon man. Although many of the substances comprised under the head of fish poison are acrid, this is by no means always the case, and hence testing the prepared fish with the lips is not always sufficient; still, it is one of the methods to be recommended. Neither are we to understand Chevallier and Duchesne's method a sufficient proof. They recommend applying a piece of the liver to the lips; but it is by no means certain that the liver is always the only poisonous part. In order to destroy the poison (which thus far has escaped detection), these authors recommend that the viscera be carefully removed, and that salt and pepper then be strewn over the fish, which should also be moistened with lemon juice, and then be allowed to stand four or five hours before cooking; the latter particular appears quite unnecessary. Since the organs of secretion seem especially to favor the accumulation of the substances here spoken of, and which are supposed to be different in different fishes, the careful removal of the viscera, and the washing out of the inside of the fish, are especially advisable; perhaps, also, the taking off of the skin.

It is the duty of the officers in charge of the public health to take measures to prevent poisoning from fish, shell-fish, and crustacea, both by inspection of the markets and by warning the public that above all things they should avoid old or putrid fish. There is great need of general and searching investigations in regard to this poison. For the protection of seafaring people, who are liable to eat unknown fish of distant localities, a knowledge of those that are poisonous should be spread by means of pictures of such.

(b) *The retention of poisonous matters* in the solid or fluid parts of animals used as food for man, is a subject whose importance to us has heretofore been overlooked. We have here to do with arsenic, lead, mercury, tobacco, opium, and strychnia. It is known that poisonous

substances, partaken of by animals, pass quickly into the milk; that honey even may be poisonous from the poison which the bees have fed on.

In regard to arsenic, Hertwig, after experimenting on beeves, sheep, goats, horses, dogs, rabbits, and birds, has drawn the following conclusions:

1. That by the administration, for medical purposes, of large or even moderate doses of arsenic to animals destined for slaughter, there results poisoning of the flesh and the milk.

2. That the poisoned condition dates from soon after the time when it is first administered, and extends over a period not yet ascertained with sufficient accuracy, but certainly to two or three weeks after the cessation of its use.

3. That by partaking of such poisoned flesh and milk, it is highly probable that unhealthy conditions may be introduced into the human system.

According to Danger and Flandin, the arsenic is not completely eliminated till the thirty-third day after its use. But undoubtedly the *species* of the animal, its *condition of health*, the *amount* of arsenic administered, and many other particulars, have here to be taken into account.

It would seem that the *external* use of arsenic assumes the most importance, as here we generally meet with the largest doses; its external use is for mange and lice. The use of large quantities of *mercury* in the curative treatment of animals to be slaughtered, would also seem to be no matter of indifference; here, too, its external use demands our especial attention, particularly the gray ointment used in such large quantities for destroying lice and other cutaneous parasites. In order, on the one hand, to avoid poisoning the meat, and, on the other, to avoid injury to the living animal, it is recommended that the owners of cattle and those who treat them medically, should be instructed in regard to the superfluous use of arsenic for the destruction of the parasites, and that very minute quantities of mercury are sufficient for this purpose; that even in using the common gray mercurial ointment, proportionally large quantities are not necessary, but that the latter might be mixed with from ten to twenty times its bulk of fat without losing its effect. Moreover, mercury is not needed in such cases; creosote, insect powder, offensive oils, suffice for their eradication. The poison may also collect in those organs especially rich in blood, and in the different secretory organs, so that the eating of these portions (liver, etc.) is particularly noxious.

The feeding of swine with putrid meat is another source of poison.

In some places, substances which might render the fish noxious as food, are used in catching fish; such as *menispermum cocculus*, *delphinium staphisagria*, *veratr. sabadill.*, *taxus baccat.*, etc. The public should be instructed in this matter, and laws forbidding their use be enacted.

As an instance of occasional impregnation of an animal used for human food with important foreign matters, that of the oyster with copper presents itself. According to the investigations of Ferrand, oysters impregnated with copper are not always green, nor do green oysters always derive their coloring from copper, but this color in oysters free from copper, is supposed to be derived from the algæ and infusoria of the water. Many oysters impregnated with copper are of a normal whiteness when the shell is opened, and become more or less colored

only on coming in contact with the air; others continue to retain their normal color. Oysters deriving their green color from the presence of copper, give it out in a dilute acid, thus being easily detected. Oysters of a normal color, and containing copper, will exhibit, under the microscope, by the addition of ferrocyanide of potassium, the usual reaction, especially if they be cut open. There is oftentimes a very considerable amount of copper. Ferrand found in a colored oyster, weighing 4.5 grammes, 12 milligrammes of oxide of copper (9 milligrammes of metallic copper.) The disagreeable taste of such oysters prevents their being eaten in dangerous quantities. In the cases examined by Ferrand, the copper with which the oysters were impregnated was supposed to have been derived from copper contained in the water from which the oysters were taken; the water received its impregnation from the drainage of copper mines and from copper-bearing mountain ledges.

Poisonous substances intended for the extermination of mice, rats, and field-mice, are, now and then, devoured by partridges, or by domestic fowls; these, dying from the effects therefrom, have been eaten by man with injurious consequences. Hence, the forbidding of exposing poisoned food where it may be picked up by birds or fowls.

(c) That putrid animal substances may be detrimental to health, is a fact not to be disputed. Is it necessary to protect the public against such substances, particularly putrid meat? Apparently not, for every one is able to distinguish fresh meat from spoiled meat. Neither does it seem necessary to warn the public against eating such meat. Moreover, in regard to game, some choose that it shall not be exactly fresh, preferring a certain degree of decay, and this is not injurious to a person in health; and it would also be impossible to fix the degree of decay allowable in material exposed for sale.

Certainly this question might be raised in regard to *prepared* meats, especially sausages, the contents of which the purchaser cannot smell; in fact we may be somewhat certain that now and then this article of food will contain meat that is not otherwise salable; moreover, the quality of such is concealed by the admixture of fresh meat and various spices. But, in regard to sausages, it is impossible to make any successful regulations; it is useless to attempt to exercise control in regard to the meat used in their manufacture, and if spoiled meat be found in them it is always easy to say that it was fresh enough when put in. The best means to avoid being deceived or injured by sausages is to avoid their use altogether. Later in this article the poison peculiar to sausages will be noticed.

(d) Among the parasites of animal food found to be dangerous to man, the *trichina spiralis*, and *tapeworm*, in different stages of development, are to be noticed. (There are other species of trichinæ which have not, as yet, demanded our attention). The trichina assails us only in pork, since we do not eat other animals in which it is found, viz., the rat, mouse, cat, fox, etc. It has not yet been fully decided what protective measures against infection from trichinæ are best, the greatest difference of opinion being in regard to the microscopical examination of pork, which some would make obligatory, others not. Delaying the discussion of this point, let us first recount other precautionary measures, remarking that I take it for granted that my readers are acquainted with the natural history of the trichina spiralis, and hence I need not recount the philosophical principles on which the following rules, recommended as precautionary, are founded; premising only that I accept the opinion

that intestinal trichinæ in the digestive canal of an animal may produce a different infection from the trichina of the muscles.

1. It is desirable to spread such a knowledge of the danger of the trichina that every one will refrain from eating pork, or any of its preparations, if he is not certain that it contains no trichina, or only such as are no longer alive. This, of course, can only be effected by suitably instructing the public.

2. Those who set public tables—as in hotels, boarding-houses, prisons, etc.—should be held responsible that they place on said tables no pork containing living trichina. The proprietors of such tables would then be careful to procure such meat as is thus warranted and so marked, or themselves subject it to microscopical examination, or take good care that it be sufficiently cooked.

3. We should endeavor to establish such regulations that all valueless dead animals, that *may* contain trichina (rats, mice, etc.), and further, all animals that are *known* to contain trichina, together with their excrements, hide, hair, etc., be so disposed of that other animals—swine in particular—cannot become infected therefrom; and that foxes, cats, martens, and polecats, which, as well as rats and mice, may become infected with trichina, be disposed of in the same way after the removal of their skins.

4. We should also seek to establish such regulations that, in so far as possible, swine be prevented from obtaining food containing trichina, viz.: rats, mice, cats, the excrement from human beings, swine or dogs, or the intestines or infected waste from swine, etc.

5. Every case of trichinosis, either in man or in swine, should be brought to the notice of the officers of public health, that its origin may be sought out and its spread prevented.

6. Meat containing living trichina, and not needed for purposes of instruction or investigation, should be destroyed, or so disposed of that infection from it be prevented. Scientific studies of the trichina should be so conducted as not to become the starting point of accidental infection. The possessor of meat thus infected, should be held liable by law for any evil proceeding therefrom. The attention of the less intelligent part of the community should be drawn to this. Animals have sometimes been fed with trichinous meat as a matter of mere curiosity; the danger of this should be decidedly opposed by law.

7. We should seek to bring such influence to bear as to insure that all pork, in which there is any doubt in regard to the absence of trichina, should never be eaten uncooked, and should be so prepared for eating that any trichina present must necessarily be killed by the thorough heating of the meat. The drying or strong salting of meat, divided into small portions, also destroys trichina, but neither preparation makes a very palatable dish. According to Gerlach, heating to a temperature of over 45° R., is sufficient to destroy life in the trichina. The public should also be taught that it is difficult, in the boiling or roasting of large pieces of meat, to permeate the inner part with a sufficient degree of heat, and that it is better to cut it into pieces of from half an inch to an inch in thickness, in order sufficiently to heat it. The change of color throughout, and in every part of the meat, from that of blood to that of well cooked meat, can be taken as evidence of its having been heated to a sufficient degree; the color of cooked meat results from the decomposition of the blood globules, which takes place at 65° C.; hence, this color does not indicate that the meat has been heated to the boiling point.

8. What is the most suitable disposition to be made of meat infected with the trichina or of suspected material?

Where the quantity is small, it is best to burn it; larger quantities may be cut up, and then moistened with dilute sulphuric acid, and after the total destruction of the organic life, it may then be buried in heaps of compost; in still other instances it may be best to pour strong smelling petroleum upon it, and then bury it at least three or four feet deep in the earth.

Next arises the question whether the microscopic examination of the pork to be used for food shall be made obligatory by law. If only such pork be eaten as has been previously subjected to a degree of heat sufficient to destroy life in any trichinae that may be present, strictly avoiding all other, there is complete security against infection from trichinae. This would forbid the eating of raw ham and some other preparations of pork. To impress upon the mind of the public the fatal result of this disease, and the means of security against it, would seem a sufficient safeguard; but while those who live in their own homes can exercise a supervision over the proper preparation of food, the interest of those who frequent restaurants and other public tables, and of course cannot rely upon the meat in question having been submitted to the required degree of heat, demands that the microscopic examination of all pork intended to be consumed by man, shall be made obligatory by law.

Against this conclusion it may be urged that it is enough to acquaint beings gifted with reason with a threatened danger, and the means, requiring no great sacrifice, of protection against it, adding in certain cases a degree of legal responsibility; and that to those who then disregard such precautions, the matter shall be left as their own private interest.

But setting aside this view of the subject, and thinking of establishing as many protective regulations as possible, such measures are beset with difficulties.

Microscopic examination of pork may become a general practice by imposing a heavy fine upon those who offer for sale pork in any form, raw, smoked, or pickled, that is not warranted free from living trichina. This, however, would tend to the complicating of penal regulations in regard to meat, since justice would require distinct regulations in regard to poisonous meat and that infected with trichina, the latter being poisonous in certain cases only, while the former, that containing arsenic, for example, remains poisonous, however carefully cooked. It would be easy to make the practice of microscopic examination general, the dealers themselves finding it for their interest to encourage it; but against such a general law arise two objections: First—The question whether the responsibility can, by right, be laid upon the dealer who but offers his goods for sale without guarantee. The public hold in their own hands the means of destroying all source of danger; why then render the dealer accountable? Secondly—Such a law would make it the duty of the Government to provide for the most careful examination of meat, and this in all places and at all times. In cities and large towns this would offer no difficulty, but where the population is more sparse and scattered, the difficulties attending would be insurmountable. Thus this would be a law which on the one side is wanting in justice, and on the other is sometimes and in some places impracticable; and hence a general compulsory law imposing upon dealers microscopic examination of pork, could not properly be established.

Again, the presence of living trichinae having been detected by the microscope, the questions arise whether any distinction is to be made

between a greater or less degree of infection; whether certain parts of the animal—not the normal site of the infection—may be safely used as food, and whether the individual shall suffer the loss consequent upon the condemnation of the animal, or whether he shall be reimbursed from the public treasury?

Before proceeding now to the consideration of the danger threatened by the presence in animal food of tapeworms, in their developed and undeveloped stages, it is well to draw attention to some general facts:

The number of the parasitic entozoa finding the sphere of their existence within the human body, has not yet been accurately ascertained, even in regard to the inhabitants of the most highly civilized districts. Trichinosis was first recognized by Zenker, near the close of the year eighteen hundred and fifty-nine. The manner in which entozoa find entrance into the human body, is, as yet, for the most part, concealed in the greatest obscurity. Hence, there can be no complete sanitary regulations in regard to such parasites. Nevertheless, the rapid increase in some districts of such cases, the severe and often fatal illness consequent upon the presence of hydatids and trematodes in the vital organs, demand exhaustive investigation.

Many entozoa find accidental entrance into the human body through animal food; they attach themselves to the external surface, as they might to other articles of food; others find entrance through minute animals which we eat unintentionally; with fresh vegetables, salad, fruit, and other things, we may involuntarily swallow small snails or slugs—these may thus chance to introduce trematodes. In regard to some other entozoa, it is probable, though not yet proved, that they are introduced through the species of animal food in which they find their natural existence; for instance, the entozoon, said to be peculiar to salmon. Others find still different modes of entrance, as in animal food and water in which the entozoic germs are floating. Others, in the consumption of the meat of other animals than those to which they are peculiar; for instance, beef may become infected from measles pork, through the medium of the chopping block of the butcher. Thus, we perceive the difficulties attending the combating of these parasites. The poorer and the less civilized a population is, and the more intimate its relations with animals that harbor entozoa, and the more numerous these animals, so much more frequent the opportunity for human infection; thus, among the Icelanders, in consequence of the great number of their dogs and their intimate relations with the latter, frightfully great numbers fall victims to the echinococcus, which originates from the taenia echinoc. of their dogs, which these in turn derive from swallowing the echinocci of beef.

Sanitary regulations have already done much for the destruction of the parasites mentioned. With the progress of scientific investigation much more will thus be effected, but never all that can be done or that is necessary to do; a large part of such preventive measures must always be the care of individuals; but here there is often need of an essential improvement in condition and culture. So long as sanitary regulations are unaided by individual effort, the former will in many respects be fruitless.

If the ingestion of living hydatids, which transform themselves into tapeworms, be prevented, we guard not only against the attack of the latter, but against the possibility of the appearance of the second generation of hydatids in the same individual. The hydatid stage of some tapeworms may exist in the same animal that is adapted to the mainte-

nance of the life of the tapeworm stage; and hence, if the eggs of a tapeworm existing within a human being enter the stomach of the individual and the embryos there escape, the person becomes infected with the animal in the hydatid stage of development; that is, an individual, within whom a tapeworm exists, may infect himself with the entozoic cyst. The danger from this infection is doubtless greater than the suffering from the tapeworm; parasites in the higher organs cause severe illness and death. Thus, when we combat the ingestion of parasitic larvæ, we work against the development of the tapeworm, and, at the same time, against self-infection with the embryos of the latter.

Aside from the self-infection with the entozoic cyst, infection may also result from the ingestion of tapeworm eggs capable of being developed—the latter may be free or still contained within the proglottides—into the muscles, intestines, etc., of the human body. As before mentioned, these eggs, especially such as have escaped from the proglottide, may attach themselves to meat or other articles of food upon which they have fallen by mere accident; it may be also that they are often received into the human body through the insufficiently cleansed internal organs of slaughtered animals or game.

From this point of view let us now consider the appearance of the hydatid stage of the tapeworm as the result of feeding upon animal food, although here it is only the measles, the entozoic cyst, which seems to come under our notice as the creating cause of the tapeworm. I would also further remark that, at the present time, aside from the *trichina spiralis*, there are but a few hydatids and tapeworms of which we have a sufficient knowledge to enable us to adopt preventive measures against them; hence, only these will be noticed. In what manner the *bothriocephalus*, in its immature state, finds entrance into the human being, is at the present day unknown; the cysticeroid stage of the *taenia nana*, *t. flavo-punctata*, and the *t. elliptica*, of which the first two have been observed but once in man and the latter but seldom, we are but little acquainted with. Leuckart, Jun., thinks it probable that these, in their first stage of development, exist in the cold-blooded animals. In regard to all these as yet imperfectly known entozoa, the most we can do is to endeavor to destroy them in their different stages of development, so far as lies in our power.

The hydatids against which man has to protect himself, that is, which take up their dwelling within the human body, are, according to the present stage of scientific knowledge, the *cysticercus cellulosus* (the immature stage of the *taenia solium*, or common tapeworm), the *cystic. tenuicollis*, (from the *t. marginata* of the dog), the *cystic. acanthotrias* and the *echinococcus* (from the *t. echinococc.* of the dog).

Whether the hydatid stage of the *t. mediocanellata* has ever appeared in man is yet undecided.

The tapeworms which appear in man, and are at the present day better known, are the *taenia solium* and the *t. mediocanellata*.

The *taenia solium*, doubtless, threatens us in both stages of its development, as *cysticercus*, (the larval form), and as tapeworm. As a source of danger, it rivals the *echinococcus*, of which from one sixth to one fifth of the whole population of Iceland are said to perish.

Any special preventive, available to the public authorities, securing protection against the eggs of the tapeworm, viz., the measles of swine, has not yet been discovered; individuals must guard themselves from contaminating hands, food, or drink with the eggs of the tapeworm, or their proglottides; those who harbor tapeworms within their bodies are

naturally most exposed to infection. Since the proglottides from excrements exposed to the air, or their liberated eggs, may easily be deposited upon salad and the like, through the medium of rain-water, it is necessary to exercise great care in the preparation of such articles of food. Of course drinking water may also become infected with these eggs. It is well for persons affected with tapeworm to use care in regard to the proglottides which escape from themselves; although such care cannot help them, it will not harm them.

What is true in regard to the ingestion of the larval form of the tapeworm is, of course, equally true of the subsequent danger from the later stage of development; that is, from the eggs thrown off by the tapeworm, the number of which, as we know, is considerable.

For the avoidance of ingestion with entozoic cysts, which, unlike the eggs of the tapeworm, are easily recognized by the naked eye, on account of their size and other characteristics, and hence, easily made subject to sanatory regulations, the following rules should be established:

1. The public should be made acquainted with the danger involved in the swallowing of measles or entozoic cysts.
2. The prevention, in every way possible, of swine becoming diseased with measles.
3. All cases of such disease should be brought to the notice of the public authorities.
4. All pork so diseased should be destroyed.

The first regulation needs no further explanation, except to add that in acquainting the public with this fact the danger should be pointed out to them of eating uncooked pork in any form, and it should be impressed upon them that although the cysts may be deprived of life by thoroughly heating the meat in boiling water and in other ways, yet in many cases, as in the cooking of large pieces, or in cooking but a short time, it becomes a matter of uncertainty whether life in the cysts does become extinct, and hence it is advisable to wholly avoid the use of measles meat as food. It were well if such instruction could be introduced into the reading books of our schools.

Measles in swine may be prevented by guarding them from contact with human excrement; since, according to our present scientific knowledge, the tapeworm only appears in human beings. Where fed in pens this is not difficult; but where left to roam at large, or driven in herds through the country, or in similar cases, this is not possible. Such knowledge should be generally spread; particularly the attention of those whose business it is to raise swine, should be drawn to the conditions under which they may be raised free from infection with measles; they should learn also that the progeny of an infected sow may and often does become infected, through the medium of the blood of the mother which transmits the embryos to the blood of the unborn young.

The other regulations offer greater difficulties. The first two regulations should not be the limit of the protective measures to be taken. So far as relates to trichinæ it may be left to individuals to protect themselves in the manner indicated, since aside from the comparatively slight danger from the discharge of intestinal trichinæ with their eggs, the risk is confined to the individual; but whoever, from want of prudence, becomes infected with cystic cellalossæ, and, thereby, with taeniæ, becomes, through the proglottides and eggs of the latter, a source of danger to others.

The most simple and effectual method would seem to be the establishment of a law, with proper penalty for infringement of same, requiring that all slaughtered swine, which are found to be infected with the entozoic cyst, be placed in the hands of the proper officers, by them to be examined, and, according to the degree of disease, either entirely destroyed, or allowed to be offered for sale after the removal and burning of the diseased portions; in the former alternative the owner's loss should be indemnified from the public treasury.

In this way there would need be no concealment of diseased swine, since the owner need suffer no loss from making it known, and thus all such infected meat could be directly destroyed; but an almost insuperable objection to it lies in the amount of trouble thus caused both to owners and officers.

In Westphalia it is computed that one in from one hundred to three hundred swine is diseased—that is, thoroughly infected with the measles; but in carrying out this regulation, it would be necessary to condemn a much larger number than this, since what would be a matter of moment to the Inspector might be scarcely noticed by the butcher.

But the foregoing method is unreliable and impracticable from the injustice there would be in condemning the seller for exposing for sale that which the purchaser has the means of rendering harmless—that is, by subjecting it to a sufficient degree of heat.

The inefficiency of regulations in this matter arises from several difficulties:

First—When the power exercised is insufficient, the meat will be sold cheaper to persons who do not understand the danger, or do not fear it;

Second—Now and again the cysts, when not too numerous, will be removed from the surface of a piece of meat, and the latter will then be sold, while other cysts are more deeply imbedded in it;

Third—Diseased pork not saleable will, especially in country houses, be salted or boiled, and then consumed by the family or servants;

Fourth—It may be mixed with healthy meat and made into sausages;

Fifth—It is scarcely feasible to exercise control over the slaughtering in private houses;

Sixth—Beyond the limits of considerable settlements, it is useless to hope for satisfactory supervision;

Seventh—Where the supervision might be satisfactory in the public slaughter-houses, there would still be danger from imported pork and preparations of the same;

Lastly—With the most careful examination, cysts deeply imbedded may escape detection.

Moreover, a very unfavorable fact is that all regulations against diseased pork will create discontent, inasmuch as it often is eaten (salted) without harm. It is also an error to exclude meat containing but few cysts, or such as, containing many, has been most carefully prepared, and rendered uninjurious by proper cooking. Nor can the authorities draw the limit to the number of cysts admissible, nor supervise their destruction by cooking. If but one cyst be present it is still diseased, and diseased meat must neither be sold nor eaten raw.

Against the use of the lard of measles pork, if fried, there is nothing to be said; if it remains raw, the cysts may be communicated to it from the muscular fibers, or they may attach themselves to it. In Paris it is rendered unpalatable by pouring oil of turpentine upon it. The entrails of diseased swine are to be treated in the same way as the muscular parts of the animal.

Against the possible contamination of the chopping-block, which can thus infect sound meat, all must be left to the care of the butcher.

The inconvenience to the butchers resulting from the purchase of diseased pork renders it desirable to seek for external signs of the measles in the living animal. As such signs, the presence of cysts in or under the conjunctiva of the eye and on the under surface of the tongue has been recognized. For the examination of the latter with eye and finger, it must be made to protrude itself from the mouth; in France they have a very skillful method of doing this; but the way in which it is generally done is so harsh as to torment and even often to injure the animal, and hence dealers are not willing to permit it. Moreover, such examination of tongue and eyes is not decisive; an animal may be diseased without displaying any cysts in these parts.

It is to be observed that, like the trichinae, the cysts prefer the fore-parts of swine, as the tongue, neck, shoulders, and within the intercostal muscles. In diseased swine, there may be some muscular parts entirely free from cysts. Wild swine are sometimes, though seldom, attacked by the cystic. cellul.

In regard to this disease, the flesh of deer should be treated the same as that of swine.

The chief preventive against infection from the measles of swine, as against other dangers from animal food, will always consist in the custom becoming prevalent of never eating raw meat, and boiling or roasting it until the inmost parts are raised to boiling heat; otherwise it must be rejected as food.

The eggs of the *taenia marginata* of the dog may produce the *cysticerci tenuicollis* in the human body. Individual cleanliness is the only direction to be given here. *Cystic. tenuicoll.* also find their way into swine and the ruminants, making their dwelling particularly in the caul and liver; it has also been observed in the squirrel and monkey. The *cystic. tenuicoll.* of swine is perhaps harmless for man, since he is not subject to the *taenia marginata*.

Which tapeworm it is from whose eggs man must defend himself in order to remain secure from the *cysticercus acanthotriax* is not yet known.

Echinococci, from the *taenia echinococcus* of the dog, is a most alarming danger to which man is exposed, but not through the medium of food. Fortunately it is a danger which may be avoided by individuals protecting themselves from the eggs of this tapeworm. With this aim the following regulations might be established:

1. Preventing dogs from feeding upon the remains of beef containing *echinococci*; or better still, animal remains containing any vesicles. (*Echinococci* are found also in the turkey and squirrel.)

2. The keeping, by themselves, of dogs who are infected with *taeniae echinococci*, the purgation and destruction of the *taeniae* so that their proglottides may not fall upon the food of cattle, or upon human nourishment.

Since the proglottides of the *taenia echinococcus* are so small that the presence of the worm may pass unnoticed, in Iceland it is recommended to shut up, at regular intervals, all dogs, say once in four weeks, for a length of time sufficient for effectual working of some purgative remedy, to administer this remedy, and then to burn the tapeworms thus expelled.

To prevent infection of the human body with the *taenia medio-canellata* it is necessary to keep at a distance the *cysticercus t. medio*. The latter appears generally or solely in beeves. Regulations in regard to this should correspond with those in regard to the measles of swine.

In sheep, beeves, hare, and swine, we now and then meet with great quantities of the *distomum hepaticum*, which also attacks man; but so far as scientific observation has gone, the human being does not become infected by direct ingestion of the liver fluke, or its eggs, with the parts where it has been located in the slaughtered animal, but the eggs, either in water or some fluid substance, develop into glistening embryos; these, Genekart thinks, probably bore their way into a snail, where they become the so-called sporocysts, whose germs, cercinate in form, may fall in the meadow where cattle feed, or upon vegetables, or into water, and thus be swallowed by cattle or by man. The eggs of the fluke enter with the gall into the intestines, whence they are expelled with the excrements, from which the falling rain may wash them into pools of water.

Against the sale of the meat of animals, infected with the liver fluke, it seems unnecessary to speak. The muscular parts of such animals, when extensively affected, in the later stages of the disease become anaemic, while the intestines, where the liver fluke dwell, are also changed; but there seems in neither to be any inherent harm, aside from the parasite itself.

It may here be remarked, that the liver fluke of man and animals prevails much more in some districts than in others, and in some years are very prevalent among animals—particularly sheep—in others, less so; in the former case they often cause great fatality among sheep. The chief thing to be done in such circumstances is not to pasture the sheep on ground sloping towards standing water—especially those already infected that may deposit the eggs in the water; further, to avoid the excrements of such, and to give all animals pure drinking water. When in the neighborhood of animals thus affected, man should exercise the more care in regard to the water he drinks, and in the cleansing of vegetables to be eaten.

Besides the *distomum hepaticum*, there are also other trematodes in the human body, which do not appear to be introduced there by ordinary animal food.

(e) There are certain diseases among animals adopted as food by man, which convey into the human body no parasite nor other contagious or poisonous influence. These do not render these animals harmful as food, whether the disease may have terminated in death, or whether the animal may have been killed at an earlier stage thereof.

Thus far experience has not shown that there is danger from meat diseased by the rinderpest, or by lung diseases of beeves. There have been cases known where symptoms of poisoning have resulted from the eating of game which had been greatly distressed and worried before death; also from the eating of the meat of animals that had undergone long marches directly before being slaughtered. The symptoms did not prove fatal. The cause of such phenomenon is not understood, nor is it always produced under the circumstances mentioned. There is nothing to be done in regard to this fact except to spread the knowledge that it may occur.

In regard to the contagious effect from the diseased state resulting from inflammation of the spleen, it has been sometimes asserted that it

cannot be destroyed by a boiling temperature, and that hence the flesh of such animals should always be rejected. It is, nevertheless, an undoubted fact that the muscles and internal organs of such animals have been eaten by man without injury. In cases where infection seems to have resulted, there may have been some other cause overlooked by the observer. But such meat, when raw, is undoubtedly dangerous, and great care should be taken in this regard. It may be eaten by cats or dogs, and swine have been made sick from the water in which it has been washed. Where the meat inspector recognizes the presence of the anthrax, the meat should not be allowed to enter the market, but should be well wet with petroleum, and then buried or burnt. This disease, which attacks all our domestic animals, poultry, and also game, in the majority of cases escapes observation, and the meat is introduced into the market as sound. Hence, when only parts of the animal are observed, as the muscles and some of the internal organs, the disease may remain unknown. The chief means of destroying the contagious effect is the application of a sufficient degree of heat, and the public should be educated in this knowledge.

In regard to the noxious or innoxious nature of the raw or cooked flesh of enragéd animals, there is difference of opinion. Here, as in the other affections we have mentioned, there is need of well conducted experiments. It has even been said that the disease has been communicated to man from the eating of the cooked flesh of enragéd animals. The same rule holds good in this as in the foregoing cases, viz: destruction of such material when it comes into our hands, and a widespread knowledge of the necessity of sufficiently heating all animal food.

(f) The eggs and larvæ of insects, particularly of those flies that feed on flesh, are often carried into the alimentary canal with meat which has not been well preserved. Under conditions of which we have no knowledge, they there continue to live, to grow, and to occasion certain phenomena of disease. Legislation can do nothing here—it is a matter in which individuals must protect themselves.

It is not improbable that the fungi of mold which vegetates upon illy preserved raw or cooked meat, may make this harmful; but nothing definite is known in regard hereto.

(C)—Public interest demands that the following conditions shall be maintained in the *preservation* of animal food, viz:

(a) Neither its nourishing properties, nor its adaptability to different methods of preparing it for the table, must be diminished;

(b) Its price must not be increased;

(c) No harmful property is to be imparted to it, nor any flavor markedly different from its natural taste;

(d) It must be sufficient for a certain length of time, and for certain external conditions;

(e) It should afford the least possible opportunity for deception.

As we already know, both raw and cooked meats are preserved.

(D)—By far the most common mode of preservation is by means of *salt*, with or without the addition of saltpeter. The salting may be followed by smoking, or by washing in dilute pyroligneous acid. These latter methods are also used without previous salting. In dried smoked meat the drying and smoking may be done simultaneously. In the same way, large quantities of raw animal food, the muscular parts of beef, fish, whole but having the entrails removed; and, in China, shell fish, also,

are preserved by mere drying. In addition to these methods there are many others, some effected by the withdrawing of the atmospheric air from either the raw or the cooked material, others in still different ways.

Salting suffices for all the conditions mentioned, with the exception of the first and a part of the third. It diminishes considerably the nutritive property of the meat, inasmuch as the salt draws the water from the meat, and with the water, the greater part of the phosphates and the potash, nearly all the extractive matters, the soluble albumen, and a great part of the myosin of the meat, and these properties cannot be again extracted from the brine and made to serve for human nourishment. The use of this brine for the feeding of swine is not without danger, since swine have often been made sick from eating it; such effect seems to result more from the ingestion of large quantities of salt and saltpeter than from organic poison. Again, salted meat is inferior to fresh for the preparation of soup, or for roasting; is not generally as palatable nor so good for invalids. In South America, salted meat is often also pressed, and the same is effected with us by its close packing in barrels. This still more increases the loss of substances soluble in salt water. The smoking of salted meat in no way changes these conditions.

Desiccation, practiced in all countries and latitudes, is, with few exceptions, least in vogue in civilized countries; it would seem to be the method best adapted to the purpose. Desiccation is effected by the heat of the sun, and by artificial heat; salted meat, raw meat unsalted, and also cooked meat, may be subjected to the process. Unsmoked desiccated meat answers all the before mentioned conditions; but it cannot be adapted to all our common methods of preparation for the table. Salting is often combined with desiccation; but this reduces the nutritive properties of the meat.

If the process of desiccation takes place in a low temperature, and if the pieces of meat are comparatively thick, it may easily happen that only the superficial parts become dried and preserved, while the more central parts, during the process and afterwards, become spoiled. Where desiccation is effected by means of smoke, the so-called antiseptic properties of the smoke come to our aid; but only under certain conditions do these penetrate to the innermost part of thick pieces.

Meat thus treated loses in nutrient value, and acquires a specific flavor. Desiccation, salting, and smoking may destroy life in trichinæ, and other organic life in meat; but whether this has been effected in any piece of meat depends solely upon the depth to which these agents have penetrated, and upon the force of their action. The same conditions are of like value in preventing putrefaction.

At the present time there are only these three methods which are of value in transporting meat (mammals or fish) considerable distances; but these do not suffice to give us the *full measure* of the benefit to be derived from the surplus supplies of the waters, and of South America, Africa, and Southern Europe. Hence, the supply of meat from these regions has, as yet, but little value for civilized countries. Some method of preservation which would fulfill all the required conditions mentioned, would be of the highest sanatory value, since it would be the means of furnishing animal food cheaper to the poorer portion of the people. All efforts in this direction are of the greatest importance to us; and the discovery of such a method would bring with it a rich pecuniary reward.

The extract of beef—a South American preparation according to Liebig's method—has of late years availed, in this respect, to a certain extent. This extract keeps, without special care, even under the most unfavorable conditions.

With the view of making the South American surplus profitable for Europe, a large number of methods of preservation have already been proposed, but all are of limited application and often fail to correspond with the conditions required.

Morgan adopts the method of washing out the whole animal with salt water before skinning it, then allows this and the blood to flow out, injects into the vessels a mixture of salt, sugar, and saltpeter, removes the skin, cuts in pieces, dries, and packs in sawdust and burnt bone.

Young packs the raw meat in the sulphurate of lime and the hydrate of lime, which absorb the oxygen of the air within the box, and also the moisture or steam, and the carbonic acid.

Pienkowsky salts the meat with the acetate of soda, not with cooking salt, and dries it; the meat can afterwards be easily freed from the salt, which may be extracted with water, but it also loses albumen with this.

Others pour fat, paraffine, etc., over raw, dried, or prepared meat.

The preservation of cooked meat, with or without spices, and the broth of meat, inclosed in small tins, is doubtless useful in certain conditions, but does not suffice for the interest of the masses whom we would feed. In the closed boxes the consumer may be supplied with spoiled material, which may either have been spoiled when put into the box, or have become so later. For the fitting out for sea voyages, long expeditions, and for troops, this point is of great import; too much caution cannot be used here. In other cases, the consumer can be left to care for himself.

In regard to this method of preservation, it may be mentioned that the meat is usually put into the boxes raw, and is then—the boxes having been first closed and soldered—subjected to a high temperature or pressure, in boiling water or otherwise; while being cooked, a small opening is usually left in the box for the escape of steam and air, the opening being closed during the process by a drop of solder. The broth of meat is poured in to fill the empty space in the box. The broth alone, with or without the addition of vegetables, is also preserved in the same way as the meat. Another method of preserving the broth of meat is first to steam the latter for awhile and then mix the liquid with flour, thus forming a dough, which is baked, making what is called meat biscuits; these are also made by mixing the meat finely chopped after having been cooked, with the flour and broth.

In families meat is sometimes preserved by laying it in *vinegar*, which method is still worse than that of salting, since by it still more of the nutrient properties of the meat are withdrawn. Runge has advised as a substitute, that the meat be exposed to the steam of acetic acid; this may easily be done, and, if no considerable condensation of the vapor into drops takes place, it is evidently the preferable method of the two.

For some kinds of animal food, sardines, for instance, *oil* is used as a preservative.

Cold is also made preservative of meat, as in the ice houses of butchers, and in the packing of fish, poultry, and other meat, in ice and snow, for transport to considerable distances.

Before leaving this division of the subject, I would also refer to some other points of sanitary interest, but which could not be included under the foregoing heads.

The muscles of animals, the most important part of animal food, differ in value as a means of nourishment for man, according to breed, age, condition, according to the degree of labor or rest for some months previous to slaughter, and also according to the nature of feed. This difference is especially marked among neat cattle whose muscles are tender or tough, juicy or dry, rich or poor in those elements which quickly elevate the human powers. It has not yet, to my knowledge, been ascertained what chemical or histological conditions are the foundation of these differences. They may arise partly from the different relative proportions of phosphorus, lime, and iron. The proportion of water contained does not decide the nutritive value, for muscles rich in fat contain less water than those that are leaner, and yet may be of inferior nutritive value to the latter; neither is it the greater proportion of water contained which makes veal less nutritive than beef, or the young of fish and mollusks inferior in the same respect to full-grown animals of these species.

As every one knows, the muscles of the *different parts of the animal* differ in quality; the muscles of the back, and particularly of the loins, are the most juicy, the most easily managed by the teeth and evidently by the stomach, also, and the most *strength-giving*.

Animal chemistry, great as its progress has been during the last thirty years, is not yet so far advanced as to enable us to give useful data in regard to the relative value of different kinds of animal food and other particulars of interest to us, and relating thereto; this is to be accomplished in the future. Thus, the present state of science does not warrant my entering into a discussion of the chemistry of the muscles of animals used for human food. In regard, however, to the data given us in our books on organic or physiologic chemistry, or on the science of nutrition, which describe the chemical composition of the animal tissues and fluids, I would remark that we must be upon our guard in considering *all* the substances present in the muscles and capable of assimilation as genuine *nutritive material*; many of them are doubtless *refuse matter*, which, had the animal continued to live, would have been thrown off through the liver, kidneys, etc., and which, taken into our blood through the medium of nutrition, are soon thrown out from the human system through the kidneys, etc., without having contributed anything to our nutrition. These waste substances, which have been already consumed in the animal, may be present in greater or less quantities, according to the various conditions of the animals before death.

(d) The preparation of animal food for the market; that is, the slaughtering and first disposition of the slaughtered animal and its meat, concerns those in charge of the public health in two particulars: (1) In regard to protecting the animal to be slaughtered, or already slaughtered, from the infection of parasites, etc. (2) The influence of the place of slaughter upon the surrounding neighborhood.

(1.) It is a well known fact, and one easily to be explained, that those whose business it is to slaughter and to handle raw meat, are more frequently than others attacked with inflammation of the spleen, and are more subject to trichinæ and infection from measles pork; infection from enraged animals and from diseases of the mucous membranes is more rare. How shall persons thus employed be protected from infection? In seeking an answer to this question we must remind ourselves

that slaughtering is frequently performed not by well taught butchers, but by unskillful persons, who are apt to accidentally cut themselves while working, thus giving more ready entrance to poisonous matters into their systems; further, no official regulations can ever obviate this difficulty, since the owner of an animal will always have the right to kill it.

Could there be a law requiring butchers, masters, or apprentices to pass an examination, they might thus be forced to a knowledge of the dangers of their business, and the remedies and means of protecting themselves; but where this is not the case, all that can be done is to seek to spread the general warning against undertaking the slaughter of suspicious animals by any one having wounds on the hands or arms, and against neglecting wounds received during the work of slaughter; also, to recommend carefully washing out such wounds after the work is completed, and similar instructions.

(2.) The influences emanating from the place of slaughter are of most significant sanitary importance to others not connected with the business; they are of equal value whether proceeding from the flesh of fish or of animals. We have, moreover, to consider that frequently we find in such places, not only the work of slaughtering carried on, but also subsequent labors, such as scalding of swine, removing hides, and cutting up of animals; and sometimes, in addition, the salting and smoking of parts of the animal, and even the making of sausages.

Wherever and in whatever manner this labor is performed, it may prove a matter of inconvenience to neighbors and passers-by in the following ways: (1) The cries of the animal being slaughtered may disturb the neighborhood; (2) the wounded animal may get loose and escape from the inclosure; (3) the slaughtering may be unpleasant to the sight; (4) intercourse and trade may be interrupted or become dangerous from the driving of animals to the place of slaughter; (5) through the maintenance of rats; (6) the air and water, both above ground and under ground, may be rendered impure by the refuse matter from slaughter and subsequent preparation of the animal, as also from that of the stalls.

These conditions are of such moment that the location of places for slaughter should only be allowed where the former can be effectually avoided; the subsequent labors, such as the melting of fat, etc., should always be considered separate from that of slaughtering, and their location be made a separate condition. Even where this business is prosecuted on a relatively small scale, these ill conditions will still arise.

Of the conditions enumerated, the first can be avoided only by locating the place of slaughter at a suitable distance from inhabited dwellings; the second, by sufficient fastenings and inclosings from the streets; the third depends partly upon the situation and partly upon the buildings; the fourth is of some importance to large cities, but not sufficiently so as to make many regulations necessary; at most, it would be sufficient to require that cattle driven through the streets be fettered in some appropriate manner; even in London, traffic is seldom disturbed by the droves of cattle driven through the streets; the fifth is not within the precincts of municipal regulation. The *sixth* meets us everywhere, and is everywhere a source of danger, and hence, demands official surveillance; the refuse material from the slaughter of different animals, differs in quantity and character; swine are scalded or singed, which processes do not occur in the slaughter of other animals; if the singeing be conducted on a large scale it spreads a disagreeable odor of the substance

singed and also of the substance used for singeing, as straw; this, however, is a local matter; in many localities the bristles of the swine are removed mechanically. Ruminants produce an infinitely larger quantity of refuse matter from the contents of stomach and intestines, than other animals.

As refuse, in a more restricted sense, we have (*a*) the solid parts of the body of the animal, which have no value as nutrient material, (*b*) the intestinal contents, (*c*) the blood and urine of the animal, (*d*) the water used for scalding or cleansing the animal. The first, (*a*), including horns, hoofs, and hair, are, in part, used for the manufacture of glue, and in other branches of industry; in part, become mere waste material; in the first case, when accumulated in large quantities, moisture may cause them to give out an offensive odor, and in the second, it belongs to the municipal authorities to see that they are properly disposed of. The contents of stomach and intestine are either used as manure, and for that purpose allowed to accumulate at the place of slaughter or elsewhere, or they are abandoned; in either case it is a matter that concerns the public weal; they may give forth an offensive odor, infect the ground, or, by means of rain, spread in a liquid form. The blood is either preserved or abandoned, in either case demanding official oversight that neither the air, ground, or water become infected with the unclean matter. All other products of slaughter mentioned are abandoned and are a matter of moment on account of the large proportion of easily decaying matters which they hold in suspension and solution.

The ground becoming infected, poisons the air, and often the springs of water. One can see that even slaughtering on a small scale may, directly or indirectly, essentially contaminate air and water; and even rivers, not very large, may, particularly in Summer, from extensive slaughterings, become unsuited to domestic purposes. Water infected by decayed animal matter is not purified by filtration.

From ignorance, or want of proper judgment, this matter has been too long neglected; it is by no means an unavoidable condition, nor is its avoidance a matter of expense.

By intelligent arrangements and careful selection of locality, it is not difficult to combine sanatory conditions with the business of slaughtering. One important particular is, not to adopt the prevalent idea that much water is needed to maintain a place of slaughter in a state of cleanliness; if properly arranged, a very little water, used sparingly, suffices, and the neighborhood is saved from the necessity of ridding itself, without injury, of a considerable quantity of impure water.

On account of measles and trichinæ, separate places should be maintained for the slaughtering of swine.

In Paris the law regulates the dimensions of the slaughter houses, and demands that they be ventilated by a transverse current of air, plastered, raised above the level of the street, provided with suitable foundation and drainage; that the walls be covered with some substance impervious to watery fluids; that the building shall contain no fire place, chimney, or stove, nor be directly connected with any sleeping room, or reservoir of water.

Before closing this article, I would refer to the compounded preparations of meat, which are so plentifully prepared both in households and for the market. Among these are the various kinds of sausages, Italian cheese, head-cheese, stuffed meats, swine's heads, dressed and garnished, etc.

Of all the above mentioned articles, *sausages*, in a sanitary point of view, hold the most prominent place; this, on the one hand, for the workmen, who, being necessarily obliged to taste the material used for filling, easily become infected with trichinæ, measles, etc.; on the other hand, for the consumers. Many cases are known of poisoning from sausages in which no poisonous metallic or other similar substance, completely foreign to the compound of meat, could be detected. The poisonous property is as yet not known, but is not necessarily always the same. Neither spices nor salt prevent the poisonous principle from making its appearance. Smell, taste, appearance, nor chemical reactions, thus far used as tests, have given any key to the presence, or non-presence, of the poison; nor do experiments on animals always reveal it. The symptoms of poisoning from sausages do not warrant us in referring it wholly to the ingestion of trichinæ; Schlossberger thinks the poison may be an organic base. Perhaps, however, the poison varies in various cases; in many its origin may be trichinæ, in others in poisonous cryptogami, which vegetate in the substance of the sausages; in others again, in fatty acids in large quantities; and in still others in spoiled meat, the taste and smell of which is disguised by spices. Poisoning, similar to that from sausages, has often occurred from other compounded preparations of meat.

That such food is more likely than any other to possess poisonous properties, is easily believed when we consider the following facts:

That badly decayed portions of meat, otherwise unsalable, are made into sausages, and the taste disguised by being highly spiced; also, that sausages are frequently, and, in fact, generally filled with uncooked meat; when cooked, often only to an insufficient degree; thus spores, trichinæ, and measles in the meat are very likely to escape extinction of life; continuing to live, they produce extensive chemical changes where results may be of great moment to the consumer.

Thus is seen how undesirable sausages are as an article of food, and how proper it is to warn the public against their use.

HYGIENE OF THE TEETH.

LECTURE DELIVERED IN SAN FRANCISCO BY L. C. LANE, M. D.

In the famous history of the hero of La Mancha many precious truths have been communicated to us, and every reader of Don Quixote will agree with me, that this work is a great storehouse of wit, proverbs, and humorous wisdom; from it I will take the liberty of selecting an example which may serve as an introduction to the plain and homely subject of my lecture. In one of his great battles, in which, as usual, Don Quixote came off the conquered, he received a violent blow on his face from a stone, which terminated his fighting for that occasion. On examination afterwards of his wounded visage, he was grieved to find he had lost one of his teeth, and in reflecting thereon, he sagely remarked to Sancho Panza, that losing a molar was very much like losing an old friend.

The subject of my lecture, then, as may be inferred, is the teeth; and, as the subject becomes a broad and endless one if we step into the domain of comparative anatomy, I shall limit myself to the consideration of human teeth.

The complaint is universal, that the teeth of later generations are continually becoming worse and worse, and though no statistical evidence exists upon the point, still reliable observations would seem to establish the truthfulness of such a belief. Let us seek for some of the causes of such degeneration, and, as far as possible, find some remedy therefor. But, first of all, let us study the anatomical form and development of teeth in the infant as well as in the grown man. The part of the tooth which reaches into the cavity of the mouth and is visible to the eye, is called the *crown* of the tooth, while that which penetrates the jaw is called the *root*. Both crown and root are constructed of a hard substance, which may be called tooth-bone; the crown has a thin coating of extraordinarily hard matter known as the enamel, while the root is covered by a matter much less hard, called *cementum*. Now let us take a small section of the tooth-bone and place it under the microscope, and we then find that it is composed of small hollow fibres or tubes, which radiate from the center of the tooth towards its surface. In the center of the tooth we find a soft substance called the pulp, and each of the before mentioned tubes stands in connection with this pulp. The *pulp* consists of a collection of blood vessels and nerves, and occupies a cavity in the center of the tooth called the pulp cavity. From the pulp cavity a small canal leads down into each root, and through this canal a *nerve* enters and *blood vessels* come and go. The pulp may be compared to a living creature, which occupies and fills this house of stone, and receives its supplies through the blood vessels which enter the roots, and maintains a still more intimate connection with the rest of the or-

ganism through a nerve which is ever wide awake, and which, though intrenched in an apparently impregnable fortress, quickly becomes conscious of and suffers from the too near approach of heat, cold, or other enemy. The tubular fibers composing the tooth, independent of the adamantine armor of enamel which covers their outer ends, are, from their perpendicular position, most happily disposed to meet and withstand an immense amount of violence.

Quite as interesting as the *anatomical* arrangement just mentioned, is the *chemical* constitution of the tooth. We find here a combination of organic and inorganic elements, and these are so disposed that, with fair play, the tooth might almost exist for eternity. Of the *inorganic* elements, we will first mention *phosphate of lime*; and here I beg leave to become the eulogist to you of a combination of matter which figures so largely in our organisms. It is the phosphate of lime which gives solidity to the limbs upon which we walk, to the arm with which we wield pen, plough, or hammer. From a defect of this agent the human form, so noble and majestic in its bearing, becomes an unseemly shape of rickety deformity; and it is for this purpose, to seek this agent and start it upon the great circuit of organic life, that the miner delves in the hills of Andalusia, and the mariner seeks the Peruvian Islands and freights his vessel with this precious gift.

Besides the *phosphate* of lime, we find in tooth-bone the *carbonate* of lime. Between the enamel and tooth-bone there is great disparity in the relation of the inorganic or stony elements to the animal matter. For example, in the enamel we have from ninety-four to ninety-eight per cent of the *calcareous* compound, while in the tooth-bone at least thirty per cent consists of *animal* matter; thus, the enamel becomes possessed of endurance greater than that of ordinary stone or marble, and the tooth-bone does not stand far behind it. The teeth of the lower animals do not differ in chemical composition from ours, and the durability of the former is well illustrated in the remarkably finely preserved condition of teeth of animals which belonged to geological periods, ages and ages ago. Buckland not only showed a quaint geological taste in directing his tomb to be hewn in the solid rock, but also a rare geological humor when he treated his friends to a very remarkable banquet—a banquet not remarkable for the age of wines there drank, but for a soup made by extracting the animal matter from teeth of fossilized hyenas, which belonged to a period of millions of years ago. I have already mentioned that in the tooth-bone is a considerable amount of animal matter, which ingredient places the tooth midway between dead and living nature, and this agent also imparts to it a certain quantity of its inherent elasticity. This agent, bearing the technical name of glutinogene, more commonly called bone-gelatine, has played a part rather the reverse of phosphate of lime, since it has lost a part of the reputation which it once enjoyed. This will appear from the following facts: In the year sixteen hundred and seventy-nine, one Papin recommended that bones should be boiled in a strong vessel, tightly closed, in order to extract the gelatine which they contained, which was to serve as an article of food. The strong vessel which he used for this purpose is known to-day in the chemical laboratory as Papin's digester. Bones, as an article of food, rose rapidly in reputation. Charles II, King of England, became deeply interested in the matter; the poor, at that time, used dogs as aids in their begging expeditions, the dogs wearing, fastened about their necks, petitions begging for bones. Papin, by aid of his digester, placed the bones under an immense pressure of boiling

water and confined steam, and he announced his success by the assertion that, by aid of his invention, he was able to convert the oldest and toughest cow into delicate and tender flesh. For a time Papin's invention was lost sight of, until it became revived during the French revolution, when, food becoming scarce, Gimbernath, Pelletier, and others, again recommended bones, and they went so far as to say that without any cost France might be enriched with as many oxen as would equal in weight the bones before thrown away. The government itself declared the bone a dish of soup already prepared by nature. It even went so far as to say that one pound of bone was equal to six pounds of meat. The extract prepared therefrom, known as Rumford's soup, was used in all the hospitals; the result upon the patient, however, not proving as good as the chemists had predicted, it fell somewhat into discredit, and finally a French commission, consisting of Dupuytren and Magendie, pronounced the soup to be worthless, and thus glutinogene or gelatine, after a most eventful career, in which the greatest chemists, an English King, and the French government had figured, was remanded back to comparative ignominy as a simple constituent of bones and teeth, where we now find it.

We will next notice the developments of the teeth; and in this respect they fall under two heads, namely, the infantile or milk teeth, and the adult or permanent teeth. The former, twenty in number, soon give place to the more durable. When the child is born the crowns of the twenty milk teeth are already developed, but concealed within the gums; at the same time, near the infantile teeth are the germs of the future permanent teeth. As a rule, the first teeth make their appearance about the sixth month of infantile life, in the middle of the lower jaw—corresponding to these similar ones appear in the upper jaw—and in eighteen months from the eruption of the first, the child has its full number. It is wonderful what a species of scape-goat this primary dentition has become; for example, if the child cries, or is peevish, has derangement of the stomach, a slight fever, or a mild eruption, the mother contents herself with the all-satisfying remark, "My child is only teething."

About the seventh year second dentition begins; that is, the milk teeth fall out, and permanent ones take their place. The infant's jaw was not capable of containing more than twenty teeth, but now it has increased in size so much that there is room for a greater number. So uniformly does the first permanent tooth make its appearance in the seventh year, that French writers have named it the seventh-year tooth; about the eleventh year the infantile teeth have been entirely replaced by the permanent ones; a year later, four large molars make their appearance, and finally, between the sixteenth and twenty-fourth year, the last four appear.

Long continued pressure upon any portion of the body, finally causes the part to shrink and disappear; in this way we are able to explain the disappearance of the roots of the infantile teeth, for near them, as before said, are the primordial germs of the future permanent teeth; these germs, gradually growing, ultimately so push upon the roots of the milk teeth as literally to reduce them to nothing, so that usually we are surprised at how readily the child's tooth is extracted.

The remark is very often heard, that it is not worth while to save the child's teeth, since they are soon to be replaced by others. This is quite an error. If the child's tooth be extracted long before it is ready to fall out, that part of the jaw whence it is taken shrinks, the neighboring teeth

approach each other, and it sometimes then happens that the permanent tooth never arrives at eruption, but remains hidden in the jaw; or, if it does come through, it often assumes an irregular and unsightly position. Another reason, however, for irregular position of the teeth, is that the permanent germs are disposed irregularly; but sometimes this arises from the teeth being disproportionately large for the jaw itself. Such irregularity should, if possible, be corrected, since it predisposes them to become hollow, owing to the difficulty of properly cleaning them. It may likewise be added, that if an error is sometimes committed in extracting the infant's teeth too early, the opposite error sometimes occurs of their never being extracted.

I will now speak of the causes which influence dental decay, and these causes, it may once for all be said, influence the infant as well as the adult tooth. Whatever the *remote* cause may be, the *proximate* one may be put down as caries, which may be defined as slow death of the structure of the tooth, ending finally in the tooth becoming hollow. The question may here be asked, does dental decay arise from causes within the tooth, or does it depend upon extraneous influences? The answer is, that caries, or dental decay, results from a chemical decomposition, brought about by causes outside of the tooth itself; hence, it is a grand exception that the disease starts from the pulp cavity, but, instead, it starts from the outside and proceeds inwards. A very eminent investigator, who has searched a great number of teeth, states that he has not found one where the disease began *within* the tooth.

There is a difference in teeth in regard to their susceptibility to decay. Bluish white, transparent teeth, however beautiful they may appear, are much more inclined to become hollow than yellow ones which are thickly invested with enamel. But this quality of durability and power of resisting decay, is acquired at an earlier period than many of you might think. The crowns of the permanent incisors, canine, and first molar teeth, are developed in the first eighteen months of life, consequently during the time that the child is nourished by its mother's milk; hence the condition of health and the chemical constitution of the mother's blood has a great influence upon the durability of these teeth. The foundation is then laid, and if it be frail, the future structure will soon fall; and this is emphatically true as regards the enamel, for the tissue which produces this has but an ephemeral existence, and having once accomplished its office, which is fulfilled before the eruption of the tooth, it disappears forever from the stage of existence. The deposit of the enamel for the permanent incisors occurs in the eighth month, and if at this time the child does not receive food containing a sufficient amount of the elements which make the enamel, this substance can never afterwards be formed. If, for example, the child should be sick at this particular period, so that its nutrition is greatly interfered with, this very illness, with its disturbing influences, is rendered manifest, and is engraven on the defective enamel of the adult tooth.

Let us now turn our attention to the direct *chemical* causes which influence dental decay. We have already seen that among the mineral elements composing the tooth, carbonate and phosphate of lime hold the leading rank; now these are lime compounds, and as such, are called basic, or alkaline salts, since the lime predominates over the acid with which it is united; now such a compound can only be attacked or dissolved by acids; on the other hand, the gelatine, or animal matter, before spoken of, is only influenced by the presence of some agent which tends to dissolve it, and among *these* we may mention the so-called septic

substances; but in the enamel which covers the tooth we have found there was but a mere trace of animal matter, while the lime compounds which so greatly predominate are liable to become dissolved by any acid which remains in contact with them for a considerable time. The conclusion to which we arrive, from the facts just presented, is that the great enemies of our teeth are acids. Let us now see how acids may find their way to the teeth. One, for example, is directly introduced as an article of food, viz., vinegar; another source of acid is from the decomposition of sugar in the mouth; sugar, under favorable influences, which are ever present in the mouth, may readily undergo decomposition, or change into an acid known to chemists as lactic acid; likewise, in the mouth, starchy foods, if properly chewed, are converted into grape-sugar, and this, undergoing a second change, may, as in the previous case, present itself in the form of lactic acid.

When, however, the mouth contains no food, there is present a small amount of saliva, and this, when in normal condition, is alkaline in nature, and thus becomes an excellent preservative for the teeth. But, instead of the saliva always retaining its alkalinity, it may, in certain conditions of ill-health, become acid, and then it becomes a solvent of the enamel. This acid condition of the saliva is, fortunately, a rare occurrence, so that, as a rule, the saliva exercises its conservative influence; and as it gravitates to and occupies the lower front portion of the mouth, from this reason the lower teeth usually outlast the upper ones; and hence tobacco chewers who would fain find some plea, some palliating excuse for their habit, claim that it preserves their teeth—and this is perhaps true, from the increased flow of saliva which is thereby induced; but, unfortunately, this dentifrice affects not the teeth alone but often induces functional disease of the heart—rather a high price to pay for the preservation of the teeth. Tomes has likewise found that the *mucus* of the mouth is slightly acid, and hence, when allowed to accumulate, endangers the existence of the teeth.

When the enamel is strong, thick, and smooth, so that it furnishes no attachment points for foreign matters, then the tooth is pretty well protected; but where there are clefts or fissures in it, rendering the surface rough, then foreign bodies lodge there, and the first step of decomposition is taken. Such clefts or fissures are sometimes thought to arise from taking ice-cold drinks immediately after hot ones; experiments, however, made upon extracted teeth have not confirmed this opinion. Decomposition having made a breach for itself through the enamel, and having reached the tooth-bone, proceeds inward with rapid march; the hollow cavern once formed, the acid and septic enemies, allied forces, intrench themselves, and with redoubled strength assault the inner citadel.

The cavern which is formed by the causes favorable to caries has, strange as it may seem, become the home of the living creature. Let us extract a small portion of this carious matter and place it in the field of the microscope, and we see things are going on quite lively therein. Small animals are here found, of the infusorial type, presenting all the evidences of active vitality. There is not *one* species only, but *several*; the most usual one being the *denticola hominis*. This animal is shaped like a bean, and is so small that it would take six thousand to extend one inch in length. This little creature, when ousted from its very comfortable quarters, quickly dies. A peculiarity of this animalcule is that similar to the *trichina*, which has lately acquired so sad a notoriety—it finally undergoes a transformation into chalk; that is, it

becomes fossilized, transforming itself into a small gravestone to mark the site of its former sphere of life. Likewise, *vegetable* parasites are found in hollow teeth, of the algoid and fungoid types. Kléncke has discovered a species, which, similar to moss or ivy upon a wall, fixes itself upon the substance of the teeth, slowly decomposing it.

Having now found how teeth germinate, develop, and decay, let us seek by what rules we are able to preserve the teeth and prolong their existence. There is, unfortunately, no universal specific which can be brought into play here to accomplish this end. We have already seen that the original *constitution* of the teeth, and the *solidity* they have attained during development, have a most important influence upon their firmness and durability, and as the foundation of future defect was laid in infancy, it is to that period we should sharply direct our attention; and hence, when a mother has defective teeth, it is advisable, during the time she nurses her child, that she should take some agent to counteract such a tendency in her infant; that remedial agent is the phosphate of lime. Of course, a physician's advice should be called into requisition here. Or in case the mother is not able to nourish her own child, in the selection of a nurse the condition of the teeth should be as carefully looked to as other matters. If these are good, then the young nursling will stand a better chance of having durable adult teeth; or should it be decided to select a nurse with defective teeth, then, as before advised, small doses of phosphate of lime should be taken by the nurse.

Besides defective firmness, the teeth are disposed to become hollow from fissures and other irregularities in the enamel; when such fissure or irregularity is congenital or natural to the tooth, there is of course no remedy. But it is seldom that such defects are natural; they are more likely to have been produced by some mechanical violence, such as crushing small bones or cracking nuts. A breach in the surface is occasionally produced by picking the teeth with metallic objects, viz: needles, pins, etc.; children should be early taught never to do this.

Extreme care should be taken that acids no not remain in the mouth; neither should sugar, or other agents, be suffered to undergo decomposition there. Here the remedy is cleanliness; and again, cleanliness. This is the greatest panacea, the supreme maxim, for the rational preservation of teeth.

But *how* are the teeth to be cleansed? In the first place, the natural use of the teeth in chewing contributes greatly to this end. This is shown in the fact that a tooth which is seldom brought into use presents early signs of decay. This arises from the fact that the collection of mucus upon it sooner or later attacks the enamel. The tooth, in this case, is not an exception to the rest of the organs of the body, which, in order to be maintained in a condition of healthy integrity, must have a certain amount of exercise.

Besides the act of chewing mentioned, *art* must come to our assistance here and aid us with the use of a proper brush. The child should early be taught to use this; and for the child, a softer brush should be selected than for the adult, since in the former the enamel has not become fully hardened; and for the adult, too hard a one should not be selected, lest the enamel here might likewise be injured.

An error frequently made in using the brush on the teeth, is that of drawing the brush transversely across them—that is, by a motion from one side of the mouth to the other. A continuance of this practice for a number of years will finally end in the production of transverse

fissures, which eventually become so deep that the teeth present an appearance as if they had been filed into, illustrating the old Greek proverb, that "water continually dropping, finally hollows out the rock." Such fissures are particularly apt to arise where tooth powder containing charcoal is used; besides, such tooth powder has the unpleasant quality of gradually penetrating into the gum around the tooth, forming a bluish or black line around the neck of the tooth—hence black tooth powder should be rejected. The practice of brushing the teeth transversely has also another pernicious effect—that instead of removing the mucus it merely transports it into the interstices between the teeth, where its presence works most deleteriously. The teeth, then, should be brushed from above downwards, and from below upwards—never from side to side—and besides the outer surface, the inner one also should be as carefully cleansed; in the whole process especial care should be taken that no particles of food be left in the interstices of the teeth. Another reason for this caution is, that the enamel in these interstices is thinner than elsewhere. And finally, not in the morning and at night alone, but *always* after eating anything, the teeth should be cleansed.

Let us next look for the best *materials* to be used for cleansing the teeth. I have already stated that such means should be used as will tend to render inert any acids which may be present. For this purpose certain powders are used, likewise pure soap. A tooth powder, in order to be good, must, above all things, be alkaline, and should contain nothing capable of becoming acid or sour; such, for example, as the sugar of milk, which is not unfrequently used. Wherever a tooth powder is particularly praised for its quality of rendering the teeth very white, it should be looked upon with distrust, since it is pretty sure to contain some agent that will attack the enamel. A good tooth powder, moreover, should be so fine grained, that when rubbed between the fingers no particles can be felt; for if it be coarse grained, it may injure the enamel by friction. The leading qualities of such powder, then, should be alkalinity and fine pulverization. As the chief ingredient of such powder, there is nothing better than carefully prepared oyster shell, or carbonate of magnesia. In order to flavor it, a small amount of powdered calamus root may be added, which has a good effect upon the gums; it may, also, be flavored with a few drops of some ethereal oil. Prepared chalk, mixed with a small amount of camphor, also makes a good tooth powder.

The question is sometimes asked: Which is preferable, a tooth *powder* or a tooth *soap*? Where there is a tendency to a collection of mucus in the mouth, the powder is better; when, however, the enamel is somewhat worn away, and great care is needed to preserve the teeth, then a soap is to be advised.

In dental hygiene, it is a serious error to retain a tooth in the mouth after it has proceeded so far in decay that it is impossible to save it by filling. This remark applies equally to the teeth of children and those of adults; and hence we may lay it down as a cardinal maxim, that whenever a tooth is decayed beyond rescue, it should, for the sake of the others, be immediately extracted; for disease, very much like vice in society, has a tendency to contaminate its neighbors.

Finally, for the preservation of the teeth, the three following rules should be observed:

First—Careful avoidance of acids, and careful cleansing of the teeth with such substances as render acids inert; for instance, alkalies.

Second—Occasional examination of the teeth, in order that a commencing cavity may be detected in due time, and the proper remedy resorted to.

Third—Immediate removal of such teeth as are decayed beyond reclamation.

The observance of these rules will more effectually preserve the teeth than all the nostrums which ever have been or ever will be recommended.

[It is but just to add, that many of the practical ideas embodied in the foregoing lecture were derived from an address delivered a few years since in Berlin, before a society which exists there for the diffusion of useful knowledge among the people at large.]

SEWERAGE.

BY ARTHUR B. STOUT, M. D., OF SAN FRANCISCO.

The inauguration of hygienic processes of every kind, for the sanitation of all places and things, whose unhealthy emanations and malarious effluvia and germ-cells are capable to produce disease, is the important theme of the State Board of Health.

So much has been already written upon the subject of sewerage, and the defects of the present system have been so apparent, with such little favorable result, that it is discouraging to work upon the subject. At the last session of the Legislature it was earnestly hoped that a Board of Public Works, composed of educated and competent engineers, would be constituted, which would come to the rescue and establish a system of sewerage, with improved sewerage pipes, and the use of salt water, to protect from fire and sanitize the City of San Francisco. And what was said of San Francisco was applicable to Sacramento and other cities, baring only the salt water for inland places. But after "much cry and little wool," nothing was accomplished.

The consequence is that no improvement in the sewerage system of San Francisco has been made. But for the remarkably salubrious climate with which the city—and especially this year—has been blessed, some portions of the city would be almost uninhabitable. Witness the region of the North Beach, and also the Eleventh Ward, on the south side of the city, and the whole region of Mission Creek and Channel street. The following article from the *Chronicle*, June nineteenth, is a picture of the Eleventh Ward scene; and a still more revolting and disgusting picture may be presented of the North Beach stygian lake. No culverts having been constructed in the bulkhead embankment around this part of the bay, the most offensive accumulations have gathered:

"A PESTILENTIAL SLOUGH.

"One of the most marked and dangerous of Chinese peculiarities is the filth, the terrible filth, in which 'Ah' is content to live, and which seems to follow him as naturally as does his pigtail, into whatever den he makes his home. When, after the fire on Sacramento street, that black, ugly slum was found to have been what scores of Dr. Stone's pets have been living in and over, like rats in a sewer, its existence was righteously, and justly enough, held up as a disgrace to the city and its citizens, especially to the guardians of the public health and weal.

"If any one will take the Folsom street cars, get out at Eleventh street, and walk southeast as far as he can—only two blocks—he will

reach what is marked on the city map as 'Channel street.' An examination of this so-called street will result in a comparison between barbaric and civilized filth, by no means favorable to the latter. A good position from which to inspect that which is not a street, but which is a most horrible slough, is gained by scrambling down through the piles of refuse and debris, jumping across a small sluggish stream, and standing with your back to the gaping, crumbling mouth of a sewer which empties itself wrongfully here. The investigator, it is to be hoped, has no 'nose of nice nobility,' for that which will 'offend' is everywhere.

"Directly in front you have, as you now stand, a piece of bare, desolate-common, rising unevenly from the stagnant pool between you and it. The nearer portion of the common looks soft and marshy, the further parts are hard, brown, and grim. A broken fence, a straggling road, dwindling away to nothing in a hopeless manner, a sad, dejected-looking cow or two, a flock of draggled geese, and a group of still more draggled, dejected, and dirty-looking women, who gather up their ragged skirts and scuttle away into their holes of houses at the sight of a stranger, very much after the fashion of rats. To the left in the background, the stacks, out-buildings and yard of a gas works, around which, and extending to your feet, lies the same stagnant pool; which, where its slimy, putrid waters are deepest, is as black as the Styx, but where it shallows at the edge is covered with a green scum, thick and frothy. To the left the houses of Eleventh street run down to the very water's edge, the last 'home' leaning over the evil slush like a decrepid tombstone, whilst a willow droops its blackening branches over the mildew-coated garden foliage, with its leaves lying in the deadly pool, and a little child thrusts its arm out and stirs the willow branches until covered with a glove and gauntlet of the same green slime. Foul and dank the same 'Channel street' creeps along, like an ugly sluggard, by the edge of the City Gardens, by vegetable yards and human dwellings, under the sleepers of the San José Railroad, gathering other and thicker streams from workshop and factory, which do not seem like streams, but look more like frightful stains, bearing refuse and stench and malaria with it. And all around you, as you stand almost choked in the horrible air, lie the dead and decaying bodies of dogs and cats innumerable. San Francisco, thanks to the trade winds and its equable air, has the healthiest climate on the continent, but the earnest endeavors we make to nullify our natural advantages must surely meet with a fitting reward at some time."

There is every prospect, cholera or no cholera, that no radical cure for the evil can be attained, until, by legislative action, a Board of Public Works can be organized.

THE SALUBRITY OF SAN FRANCISCO AND ST. LOUIS.

[From the Alta California, July 27th, 1873.]

"The New York Board of Health has published a report which we have not seen; but several Eastern newspapers give extracts or abstracts of it, and attribute to it a table showing the number of deaths per thousand inhabitants, including the following figures:

Naples.....	39
Berlin.....	38
Milan.....	38
Florence.....	37
Vienna.....	35
Liverpool.....	35
Turin.....	33
Glasgow.....	32
Manchester.....	31
Rome.....	30
Genoa.....	29
Edinburgh.....	26
Dublin.....	26
London.....	24
Vicksburg.....	41
Troy.....	38
Mobile.....	34
Charleston.....	31
Savannah.....	30
New Orleans.....	29
New York.....	28
Baltimore.....	26
Boston.....	23
Chicago.....	23
Philadelphia.....	22
San Francisco.....	21
Cleveland.....	19
St. Louis.....	16

"The figures differ materially from those compiled by Dr. Logan from the Fourth Annual St. Louis Health Report, in which St. Louis was credited with twenty-one deaths in a thousand; Chicago and Boston each with twenty-four; and Philadelphia with twenty-five. Of course, from year to year, considerable changes are possible, but they are not probable. The proportion of sixteen per thousand in St. Louis is incredible, while Cincinnati, a city very similarly situated in nearly every respect, has twenty-two. Missouri has no peculiar features of climate, topography, or popular enlightenment, to give it any superior salubrity as compared with Illinois, Kansas, or Kentucky, nor has its chief city any advantages over the metropolis of Ohio.

"San Francisco, on the other hand, has been recognized as a remarkably salubrious city by many medical authorities. The equability of its climate, the warmth of its Winter, the coolness of its Summer, the dryness of its atmosphere, the strength of its breezes, the abundance of its ozone, the tonic influence of its atmosphere, the open air life and the pecuniary comfort of its people, should make it exceptionally healthy. Many writers of travels have praised the fresh complexions, the plump figures, and the active habits of the San Franciscans. Here we have a mean temperature of forty-nine degrees in January, and fifty-seven degrees in July, showing a difference of only eight degrees; whereas in St. Louis the corresponding figures are thirty degrees and seventy-four degrees, with a difference of forty-four degrees. It is incredible that such a place should be remarkable for salubrity, while it is equally incredible that San Francisco should be insalubrious. We might be content to learn that our city had a larger proportion of deaths than Santa Barbara, San Diego, Sonoma, Oakland, Monterey, San José, or some other present or prospective earthly paradise on our coast, possessing many of the best points of the climate of San Francisco, and having unquestioned advantages in other respects; but to be reported inferior to any city in the hot, humid, malarious Mississippi Valley, is more than we can submit to contentedly.

"One feature of the sanitary condition of St. Louis is the frequency of its fatal epidemics; scarcely a Summer passing without one. The following telegram was published a few days ago:

" 'St. Louis, July nineteenth.—The mortality report this week gives the number of deaths at one hundred and ninety-one, being fifty more than last week. Of this number, fifteen are reported as from cholera, and sixty-nine from cholera morbus. One hundred and thirty-three were under five years of age.'

"Two epidemics are now raging in the metropolis of the Mississippi Basin, and one of these, the cholera morbus, makes its appearance every Summer. It does not attract so much attention, or cause so much fright, as the Asiatic cholera, but it carries off ten times as many victims. The mortality for that week was at the rate of thirty-three per thousand in a year, in a population of three hundred thousand; and of all the deaths reported, sixty-nine per cent were infants—a frightful proportion. In San Francisco, the proportion of infant mortality is about thirty. As cholera morbus and scarlet fever, which carry off a large share of the children in Eastern cities, do comparatively little harm here, San Francisco is the safest place known for raising children."

The writer of this article remarks: "It is equally incredible that San Francisco should be insalubrious." He forgets the ill health engendered by defective sewerage. Certainly, it is incredible that the governing authorities in the State should neglect year after year to apply the proper remedy, by appointing a Board of Public Works; but it is, radically speaking, the people's fault, and they breathe their punishment in foul air, and the deaths among their children. These, from their having in their tender age less resisting power, and being suckled on milk secreted from poor blood, make up the high percentage of mortality. If the people persist in electing incompetent rulers, they imbibe the fruit of their choice. There can be no doubt that if the salubrity of the air of San Francisco were not poisoned from this cause, that its mortality rate, twenty-one in one thousand, would fall below that of St. Louis, given at sixteen in one thousand.

A certain amount of malarious influence is inevitable; it prevails all over the world. Wherever the alternations of life and death by decomposition and reconstruction occur, there will be generated emanations insalubrious to the health of man; but this truth is no apology for the death ratio of San Francisco being twenty-one, while that of St. Louis is only sixteen. The amendment, however, must cost some millions of taxation, and competent engineers to expend the money. While the people persist in electing avaricious politicians to legislative offices requiring high education, they will inhale the offspring of their own incompetency. The ratio of "death in the pot" depends upon the ratio of incompetent lawgivers.

The *Alta California*, of October tenth, well expresses the public want; and we quote it with pleasure, as giving to private opinion the weight of public sentiment.

"A NEW BULKHEAD NEEDED.

"Let it be granted that those of our fellow citizens who have been elected to represent the wants of this city in the Legislature, and to de-

fend her rights, were sincere in whatever pledges to that effect they made before election, and will not go back of their pledges in that respect now that fortune has favored them. To their consideration and favor, therefore, we recommend a consideration of the subject of our city front, and a seawall or bulkhead—that which is partially, and that which we hope is to be, as mapped and published by Mr. T. J. Arnold, ‘Engineer of the Seawall.’ For it is an important subject, one which interests all of us, and is one of the utmost importance to the city.

“The present condition of our city front may be understood from an observation of the constant operations of the mud scows and steam scoop. A dock is cleaned out and the depth of water made sufficient for dockage of ships; and then another, and then another, and by the time the round has been made, the first one cleaned needs again the labor of the steam scoop. There is the ship *Three Brothers*, at Market street wharf, not yet loaded, but already lying in a bed of mud, even at high water, and requiring, probably, the power of a steam tug to take her into the stream, where she must be taken to receive the remainder of her cargo, because there is not water enough at the end of Market street wharf to float her when full laden.

“And yet the shipping that has visited this port has been taxed heavily for the conveniences afforded them; and for several years the funds thus raised have been devoted to the building of a seawall which time and experience have shown is inadequate to the purpose intended.

“A proper bulkhead should be so planned and constructed that no eddies should be formed by the tide, either flood or ebb. This we think might be accomplished by means of a seawall, as planned by Mr. Nichols. Besides, his bulkhead would leave a continuous street along the entire city front, from south of China Basin to Van Ness Avenue, for a railroad, and thus ship and car would be brought together; as well as the docks being cleaned out, more or less, by the action of the tides.”

The present bulkhead is scarcely a seawall; it is only a rubble embankment, and, as long ago stated, only the predecessor of a city front wall worthy of the shipping interests of San Francisco. In the present order of business the filth deposited, and raised by dredging, is an additional source of insalubrity. If this impurity be calculated, in addition to the nauseous accumulations inside the bulkhead for want of egress through culverts, the depreciation of property in that section of the city, so important to commerce, may be comprehended. As it is, important mercantile houses are excluded from the city front. How changed would be the aspect of things; for now, there is no fine commercial avenue to the front, from Market street to Meiggs’ wharf. If a fine esplanade were constructed along this margin of the city, and Jackson street on the north side, and Washington street on the south side, should be opened widely to Montgomery, or to Kearny, on south side of Washington, with an Oriental custom house on one side, and a European custom house on the other, and with the present public buildings occupying the middle block. Add then to these improvements a fine Fresnel light, on the pier, to guide vessels through the dense fogs of Winter nights. But such costly alterations, by no means Utopian, require the coöperation of scientific engineering with the requisite capital.

If to this picture be added the necessity of an improved system of drainage, consisting of reservoirs, constructed in the hills which ridge the city and county in various directions, by taking advantage of the

favorable depressions they present, to form artificial lakes, and supplied with engines to pump salt water from the ocean to fill them, and again provided with pipes to carry this salt water into the sewer tubes of the low lands which form the Eleventh Ward and the great Mission plain. And the honorable Legislature may readily perceive the necessity and advantage of a competent Board of Engineers. The contract system, by thus falling under the inspection of able authorities, would be divested of its means of deception.

SANIFICATION WITH ALUMINA AND THE EARTH CLOSET.

There is another amelioration which may be inaugurated in cities with great advantage to health and comfort, but to be applied on a large scale requires municipal sanction and support. At the present time alumina and earth closets are only used in some private and public houses, or in hospitals; but the value of the system, when judiciously used, is now so fully established in Europe and our Eastern States that it deserves to be adopted as a general principle, and to be made compulsory. This can be done either under municipal authority, or, still more systematically, by companies incorporated, the same as gas and water companies. The processes and apparatus of such companies need not be confined to cities, but are applicable in all sickly places and unhealthy manufactories, butcheries, packing houses, etc., in the State of California.

The disinfecting properties of purified alumina and dry ash, to purify substances whose decomposition creates malarious and putrescent emanations in the atmosphere, are now fully proved. By destroying these, or preventing their production by the coöperation of companies, the principal sources of disease and infection in cities, towns, and villages throughout the State, may be removed. Again, by the purification of these effete matters, they become economical fertilizers, and may be returned to the soil on farms and gardens without offensive influences, while at the same time the salubrity of the locality where used cannot fail to be improved.

To appreciate the value of fertilizers, consult the work of Bruckner and Chynoveth, Philadelphia, eighteen hundred and seventy-two, on "American Manures." The alumina process will add another highly profitable fertilizer to their catalogue, and render all waste products important to commerce. The commercial manures used in England the last year amounted to eight hundred thousand tons. Time will not permit details on this subject, but every agricultural economist and every farmer should study the above named work.

To render alumina fully available it should be purified. This substance is the same as the clay used for brick-making; but as such it contains a large per cent of *silex* sand, and vegetable, or other impurities. To clean it from these impurities is a simple process. Stir thoroughly in a tank with water—a hundred weight or more—and let the sand settle to the bottom, but draw off the water still turbid with the alumina into a second tank, and leave the water at rest; the alumina will now fall to the bottom, and the clear water may be drawn off. The pure alumina thus obtained may be thrown into a depot exposed to the sun, and perfectly dried. It only remains to reduce it to a very fine powder by grinding or rolling it, and keeping it dry for use in barrels or sacks.

It may also be remarked, that the water used has an increased value, as it becomes perfectly purified and disinfected by the process. The water will retain its purity, without growth of vegetable or animal products, for a great length of time, and is, therefore, the best quality of water for ships on long voyages. Its use for this and similar purposes, cannot fail to promote hygiene on shipboard, or for house use, where the water is hard from the presence of lime, or soon spoils from the generation of vegetable and animal growths. Such water has been known to keep perfectly pure during two voyages around the Horn, while other water became foetid and unfit to drink. For steamers, it hence becomes a very desirable article.

On the other hand, the refuse sand, from being well washed, is divested of salt and other impurities, and where very clean sand is required, becomes useful.

Let us then inquire into the utility of the earth closet. Where the human waste descends into sewers properly constructed, it is rapidly swept away into the ocean and lost; but where there is no sewerage, it is deposited in water closets situated in the center of the blocks. Some buildings have several of these closets, but allowing one to every tenement, it is easy to calculate the number of these reeking receptacles in every block. The houses surround them closely, and through their back windows and kitchens receive their noxious effluvia. The comprehension of this state of things may be assisted by imagining these emanations to be rendered visible, by appearing as an actual *smoke*; then would people believe, because they always believe what they see with their own eyes. But it might be compared to the smoke evolved from a suppressed volcano, and the kitchens, dining rooms and bedrooms which commonly occupy the rear of habitations, would be seen filled with odorous smoke. It is, of course, vain to open doors and windows for ventilation—the warm air in the house ascends, and the *smoke* is drawn in. It is the water closets which get purified and ventilated, at the expense of the surrounding edifices.

Now, except where the wealthy live, it is in the rear of such tenements, and in the center of such blocks, that physicians find their patients. With this quality of air is supplied the five hundred cubic feet of atmosphere allotted by law to every normal sleeping apartment for one person! And if such apartments were vacated at midnight, as would not be without example, a sad procession would march to the vicinity of Portsmouth Square.

It not unfrequently happens that public schools are constructed on the hollow square plan, with water closets for the children in the center, and no communication with a sewer. The result is, that foul air constantly enters the school rooms; and the next result is diphtheria, measles, scarlet fever, mumps, croup, whooping cough, *et id omne genus*, among the children. In these cases, the teacher unconsciously gives the best remedy, and sends the pupil home, for fear the others might catch the disease. The banished pupil is truly in good luck.

Doubtless, in time to come, the whole subject of the system of sewerage will be revised anew in California. And although we may not be able to hasten the movement in that direction, we may at least record its foresight. The question will be: Shall the sewage of cities and towns be admitted into the navigable waters, rivers, and streamlets of the State? It is known that sewage not only pollutes the waters, but renders them destructive to health. And again, that it drives from the rivers and bays the fish from their natural haunts. Fish require for

their sustenance the purest water, whether fresh or salt, according to their organization, and some require both fresh and salt according to the law of their development. When the waters become impure by sewage the fish die, or resort to better localities, and return when in due season the purity of the water, according to their mode of testing, is restored. Fish are admirable experts in water assaying. These facts concern the important salmon and trout fisheries of the State. Those enterprising societies who occupy themselves with the introduction of new species of fish will do well to study this question; for of what avail will be the trouble and expense of introducing new fish, as shad—the possibility of which is now proved—if their ova are to be cast into polluted streams?

For the present time, the question may be waived in California; for the population being sparse, and the rivers large, it will be long before the waters may become seriously contaminated. But in England, where the population is dense and the rivers small, the subject has become a question of life and death. The civil and army officers of health are intensely preoccupied with it; and millions are expended to obtain amelioration.

The cost of collecting and disinfecting the sewage is reimbursed by its value as a fertilizer. These processes have introduced the system of irrigation with fluid sewage. The fluid sewage, rich in ammonia and phosphorus salts in solution, is sprinkled over the land to the extent of from four thousand to nine thousand tons the acre per annum. But yet, although the quantity of the resulting harvests is greatly increased, the quality of the products is not always in the same ratio. The great advantage of the system is hygienic. The pollution of the rivers is prevented; the atmosphere is disinfected; and the valuable fisheries are restored.

These systems may well be held in view in the location of new towns, but will probably for a long time to come be neglected; while in California, for fertilizing purposes, the gigantic system of irrigation by canals, with the pure waters of the interior rivers and lakes, is brought successfully into requisition.

WATER TANKS ON THE TOPS OF HOUSES.

[BY DR. A. B. STOUT.]

[The following article was omitted on page 138.]

The water supply of San Francisco is derived chiefly from the Spring Valley Water Company's works. A few other sources exist; certain it is that others should be devised. This water is introduced into houses in two different modes:

First—By direct communication with the main pipes to the emission faucets in the houses. This method supplies the water under the entire pressure from the head of the reservoir. The pressure in many parts of the town is far too great for the convenience of consumers. Accordingly another mode of introduction is resorted to.

Second—In order to moderate the force of the stream, tanks are built on the tops of the houses, which receive the water from the street mains, and the water is thence conducted through the houses by the usual pipes. To regulate the supply in the tanks, and prevent overflow, a spherical copper vessel floats upon the water and connects with a stop-cock in the water pipe. When the tank is full the float rises, turns the valve, and shuts off the supply of water; and again, as the water is withdrawn from the tank, the float descends and allows the valve to open. This ingenious apparatus serves a good purpose; but it has the great disadvantage, in a hygienic point of view, that, in interrupting the free and constant flow of fresh water from the mains, it creates a little lake of stagnant water on every house-top where it is employed. The water is detained in the tank, by not being steadily drawn out, and is exposed to the rays of the sun for indefinite periods of time, and all the organic operations of vegetable and animal germination and decomposition have the same opportunity to occur as in stagnant pools. Months, sometimes years, elapse and no thought is given to clean and sanify the tanks. These remarks are equally applicable to those larger tanks in the Mission plain, which are elevated in the air and filled from wells by the aid of windmills. In these latter, the water often remains for a long while, for the owners are induced to economise the water in order to maintain their supply, when, during the Summer season, there is often quite a length of time in which the wind does not blow strongly enough to work the windmill.

It not unfrequently happens that these house-top tanks are inaccessible, except at considerable trouble and expense, and are not supplied with covers. Housekeepers, who otherwise would be careful, are consequently deterred from taking the proper precautions to sanify their tanks. Persons unacquainted with these facts, and finding the water impure, would be disposed to inculpate the reservoirs of the Spring

Valley Water Company, when, in truth, the noxious swamp is on the roof of their own houses.

The question of the purity of water, and strictly careful analyses of the varied ingredients which the analytic chemist can detect, are from time to time urged upon the public, doubtfully appreciative of the scientific skill displayed. But let any housekeeper, not too lazy to take the trouble, enter a search into the contents of the tank on his house roof; let him collect a bottle full of its *soil*, and put one drop of it under a proper microscope, and then pronounce—having seen it with his own eyes—upon the *soup* which he drinks.

Many observers know that these house-top tanks are the birthplace of mosquitoes, like any other swamps, only on a smaller scale, and that their offspring migrate into the apartments below them; that various devices of window screens and mosquito nets are resorted to, and that one house will be infested while adjacent ones will be exempt, and yet the hint of the mosquito, truly piquant, fails to awake them to the quality of their beverage.

The water when first drawn from the tank may appear clear and pure, but in a short time it becomes cloudy, emits a faint odor, and soon turns to a greenish color. After a time, green vegetable matter forms, some of which floats on the surface, and, also, gathers on the bottom of the containing vessel. This vegetable growth now becomes the nidus or homestead of innumerable microscopic animalcules of many different species. In due time these plant and animal creations die, and decompose, adding thereby another noxious ingredient to the water. Air and water for human use should be pure, or nearly so; anything short of purity is an incentive to gastric disorder and unfavorable digestion. We may not be able to specify, with precision, if all these vegetable and animal products are actually poisonous when taken into the stomach, nor yet how far the heat of the organ may destroy them, and the gastric juice assimilate them, like other vegetable and animal food, but we do know that such infected water, when drank, produces nausea very promptly. The stomach revolts, and indicates to the mind that something unhealthy has been swallowed. We also know that certain of them escape destruction in the stomach, and are absorbed into the blood, and give rise to toxæmia. It is not our object, here, to discuss these questions, but, accepting the well admitted fact that water, under the above conditions, is unwholesome, to show that these tanks, when neglected, are the prolific generators of septic fevers and other diseases of anæmic type not necessarily febrile.

SYNOPSIS

OF SPECIAL SUBJECTS CONSTITUTING A COURSE OF LECTURES ON
SANITARY SCIENCE AND ITS COLLATERALS, PROPOSED TO BE
DELIVERED DURING THE JUNIOR AND SENIOR YEARS OF THE
STUDENTS IN THE UNIVERSITY OF CALIFORNIA, BOTH IN THE
ACADEMIC AND MEDICAL DEPARTMENTS.

INTRODUCTORY.

The wisdom of the Regents in founding a Professorship of Hygiene—of incalculable benefits, because of the existence of disease and its heredity, which may be averted by a knowledge of the laws of health; considerations sustaining the theory of preventability of disease, and showing in what respects there is a practical and theoretical lawlessness; history of hygiene; epidemics of the dark ages; the dawn of returning civilization contemporaneous with the sanitary code of Bernardo, in thirteen hundred and seventy-four; establishment of lazarettos; modern sanitary science; its objects and its aims the analogue of the ancient.

GENERAL OUTLINES OF THE COURSE.

Hygiene, defined as that branch of sanitary science which concerns the physical condition of man—founded upon the physiological principles by which the organs are governed; in the same ratio that physiology and chemistry become better understood, does it approach nearer to a science; influence of attention to physiology in prolonging life, as proved by mortality statistics; the comparative superiority of other animals in exemption from disease accounted for; facts showing the increase in the duration of life; most diseases arise from avoidable causes; general causes of disease and mortality.

GENERAL DOCTRINES OF LIFE AND ORGANIZATION.

The main facts and principles of human anatomy and physiology, illustrated by drawings, models, and preparations of natural parts, and by references to comparative anatomy and physiology; hygiene of the respiratory organs; of the digestive organs; of the nervous system, muscles, and locomotive organs, etc.; the practical application of this knowledge in preventing certain diseases, and also to cases of drowning, suffocation, burning, hemorrhage, etc.

PRIVATE HYGIENE, OR LAWS OF HEALTH RELATING TO THE INDIVIDUAL.

Embracing the relations of food and water; condiments, stimulants, and narcotics (no part of the course will receive more profound atten-

tion than that upon the terrible evils resulting from the habitual use of narcotics and alcoholic compounds); personal cleanliness; pure air; bathing; clothing; exercise; manual and mental labor; rest; sleep; influence on health of occupation and idleness; of different professions; outdoor and indoor life; relaxation, recreation, amusements, games, sports, etc.

LAWS OF THE RELATIONS OF SEX.

Love the source of all the passions; its abuses and excesses; marriage is its consummation and its emancipation; effects of marriage on longevity; proper selections; effects of, on offspring; mingling of nationalities and races; libertinism; glance at, in ancient and modern times; the most active cause of insanity, and of the dissolution of society; means of combating libertinism.

MENTAL HYGIENE.

The word, hygiene, in its largest sense, signifies rules for perfect culture of mind and body; it is impossible to dissociate the two; the body is affected by every mental and moral action; the mind is profoundly influenced by bodily conditions; effects of cerebral conditions; effects of physical influences; effects of mental conditions and influences; mental hygiene, as affected by the practices of the times, and by the tendency to disease; nature, kinds, and degrees of mental and moral unsoundness; storm signals and beacon lights for the prevention of different forms of insanity and premature mental decay.

DOMESTIC HYGIENE.

Site, surroundings, warming, lighting, and ventilation; house drains, and sewerage of family dwellings; tenement dwellings of the poor; cooking and family discipline, etc.; household science in general.

PUBLIC HYGIENE OR STATE MEDICINE.

State, or as sometimes termed, political, medicine, concerns itself but little relative to the cure of disease; the problem which it seeks to solve, is how disease may be averted; general conditions affecting health of communities or classes of people; climate and topography; meteorological relations; altitude; geological formations; soils; vegetation; exposure to sun and winds; proximity to mountains, plains, marshes, bodies of water, etc.; cultivation; drainage of swamps and low places; irrigation and flooding by dams and canals; rains and droughts; fogs, mists, etc.; potable water; wells; springs; rain water; city and country residences; sewerage of cities; water and gas pipes; narrow streets and lanes; avenues and parks; docks and wharves; pollution of rivers and harbors; interment of the dead, etc.; contagious and malarious diseases, their nature; zymotic diseases; laws of propagation and prevention; quarantine; disinfection, etc.; registration of marriages, births, and deaths the basis of all knowledge in sanatory science; importance of Boards of Health; duties of their officers and other functionaries; influence of occupation on duration of life; influence of modern civili-

zation on health and longevity; general review of the evils to be corrected by sanitary reforms; the fate of man is in his own hands.

The above synopsis is here presented in exemplification of what has been stated in this report to the Governor (page three), and is intended to give some idea of the vast range of subjects embraced in this important branch of education. Only the most fundamental facts and principles have been mentioned, and the whole list of subjects will require revision and modification, as circumstances and exigencies may develop.

Secretary State Board of Health.

LAWS OF THE STATE

RELATING TO THE

Preservation of the Public Health and Medical Matters.

[The portions printed in italics comprise the alterations and amendments found to be requisite.—Secretary of State Board of Health.]

PRESERVATION OF PUBLIC HEALTH.

ARTICLE I. STATE BOARD OF HEALTH.

II. VACCINE AGENT.

III. HEALTH AND QUARANTINE REGULATIONS FOR THE CITY AND HARBOR OF SAN FRANCISCO.

IV. HEALTH REGULATIONS FOR THE CITY OF SACRAMENTO.

V. HEALTH AND QUARANTINE OF OTHER CITIES, TOWNS, AND HARBORS.

ARTICLE I.

STATE BOARD OF HEALTH.

SEC. 2978. The State Board of Health consists of seven physicians—two of the City of Sacramento, and five from other portions of the State—appointed by the Governor for the term of four years.

SEC. 2979. The State Board of Health must place themselves in communication with the local Boards of Health, hospitals, asylums, and public institutions throughout the State, and take cognizance of the interests of health and life among the citizens generally. They must make sanitary investigations and inquiries respecting the causes of disease, especially of epidemics, the source of mortality, and the effects of localities, employments, conditions, and circumstances on the public health, and gather such information in respect to these matters as they may deem proper for diffusion among the people. They may devise some scheme whereby medical and vital statistics of sanitary value can be obtained, and act as an Advisory Board to the State in all hygienic and medical matters, especially such as relate to the location, construction, sewerage, and administration of prisons, hospitals, asylums, and other public institutions. They must at each biennial session of the Legislature make a report, with such suggestions as to legislative action as they deem proper.

SEC. 2980. The Board must examine into and report what in their best judgment is the effect of the use of intoxicating liquor as a beverage upon the industry, prosperity, happiness, health, and lives of the citizens of the State; also, what legislation, if any, is necessary in the premises.

SEC. 2981. The Board must meet at the Capital of the State, at least once in every three months. They must elect from their own number a President and a permanent Secretary; the latter must reside at the Capital, and is their executive officer. No member, except the Secretary, receives any compensation; but the actual traveling expenses of the members, while engaged in the duties of the Board, are allowed, and paid out of the General Fund.

SEC. 2982. The Secretary must superintend the work and perform such other duties as the Board may require. He must furnish the Legislature, when in session, such information cognate to this Chapter as, from time to time, may be necessary. An annual salary of twenty-five hundred dollars, and his office and other necessary expenses incurred in the performance of his duties, must be paid to him in the same manner as salaries of State officers are paid.

SEC. 2983. The expense of the Board, including the salary of the Secretary, must not exceed four thousand dollars per annum.

ARTICLE II.

VACCINATION.

SEC. 2993. The *Secretary of the State Board of Health* must obtain a supply of genuine vaccine matter, and preserve the same for the use and benefit of the citizens of this State.

SEC. 2994. *Said Secretary* must furnish genuine vaccine matter * * * to any regular practicing physician, in good standing in his profession, in this State. He may charge and receive for every parcel or *scab* of vaccine matter furnished, the sum of five dollars, which is in full compensation for his services and expenses.

ARTICLE III.

HEALTH AND QUARANTINE REGULATIONS FOR THE CITY AND HARBOR OF SAN FRANCISCO.

SEC. 3004. The quarantine grounds of the bay and harbor of San Francisco are at the anchorage of Saucelito.

SEC. 3005. The Board of Health of the City and County of San Francisco consists of the Mayor of the city and county, and four physicians in good standing residing in the City and County of San Francisco, appointed by the Governor, and holding their offices for the term of five years.

SEC. 3006. The Mayor is *ex officio* President of the Board. The Board must meet monthly, and at such other times as the President may direct. In the absence of the President, the Board may elect a Chairman, who is clothed with the same powers as the President.

SEC. 3007. The Health Officer of the City and County and port of San Francisco is elected by the Board of Health, and holds office at its pleasure. He must be a graduate of some medical college, in good standing, and must reside within the city limits of San Francisco.

SEC. 3008. The Health Officer may perform all acts which quarantine officers are usually authorized to perform, and he is the executive officer of the Board of Health.

SEC. 3009. The Board of Health must appoint a Deputy Health Officer, who is a physician in good standing; a Secretary, two Health Inspectors, one Market Inspector, and one Messenger, whose duties must be fixed by the Health Officer.

SEC. 3010. The following annual salaries are allowed to the officers of the Health Department: Health Officer, twenty-four hundred dollars; Deputy Health Officer, eighteen hundred dollars; Secretary, two thousand one hundred dollars; Health Inspectors, one thousand two hundred dollars each; Market Inspector, one thousand two hundred dollars; and, Messenger, nine hundred dollars. All salaries must be paid monthly in equal installments, out of the General Fund of the City and County of San Francisco, in the same manner as the salaries of other officers of the city and county are paid.

SEC. 3011. The Health Officer, in addition to his salary, receives such sums for the necessary expenses of his office as the Board of Health may direct, and the Auditor must audit and the Treasurer pay such sums out of the General Fund. The Board of Supervisors must provide proper offices for the Health Department.

SEC. 3012. The Board of Health have general supervision of all matters appertaining to the sanitary condition of the city and county, including the City and County Hospital, the County Jail, Almshouse, Industrial School, and all public health institutions provided by the City and County of San Francisco; and may adopt such orders and regulations and appoint or discharge such medical attendants and employes as to them seems best to promote the public welfare; and may appoint as many Health Inspectors as they deem necessary in time of epidemics.

SEC. 3013. Shipmasters bringing vessels into the harbor of San Francisco, and masters, owners, or consignees having vessels in the harbor which have on board any cases of Asiatic cholera, smallpox, yellow, typhus, or ship fever, must report the same, in writing, to the Health Officer, before landing any passengers, casting anchor, or coming to any wharf, or as soon thereafter as they or either of them become aware of the existence of either of these diseases on board of their vessels.

SEC. 3014. No captain or other officer in command of any vessel sailing under a register arriving at the port of San Francisco, nor any owner, consignee, agent, or other person having charge of such vessel, must, under a penalty of not less than one hundred dollars nor more than one thousand dollars, land or permit to be landed any freight, passengers, or other persons from such vessel, until he has reported to the Health Officer, presented his bill of health, and received a permit from that officer to land freight, passengers, or other persons.

SEC. 3015. Every pilot who conducts into the port of San Francisco any vessel subject to quarantine or examination by the Health Officer, must:

1. Bring the vessel no nearer the city than is allowed by law;

2. Prevent any person from leaving, and any communication being made with the vessel under his charge, until the Health Officer has boarded her and given the necessary orders and directions;

3. Be vigilant in preventing any violation of the quarantine laws, and report without delay all such violations that come to his knowledge to the Health Officer;

4. Present the master of the vessel with a printed copy of the quarantine laws, unless he has one;

5. If the vessel is subject to quarantine by reason of infection, place at the masthead a small yellow flag.

SEC. 3016. Every master of a vessel, subject to quarantine or visitation by the Health Officer, arriving in the port of San Francisco, who refuses or neglects either:

1. To proceed with and anchor his vessel at the place assigned for quarantine, when legally directed so to do; or,

2. To submit his vessel, cargo, and passengers to the Health Officer, and furnish all necessary information to enable that officer to determine what quarantine or other regulations they ought, respectively, to be subject; or,

3. To report all cases of disease, and of deaths occurring on his vessel, and to comply with all the sanitary regulations of the bay and harbor;

—Is liable in the sum of five hundred dollars for every such neglect or refusal.

SEC. 3017. All vessels arriving off the port of San Francisco from ports which have been legally declared infected ports, and all vessels arriving from ports where there is prevailing, at the time of their departure, any contagious, infectious, or pestilential diseases, or vessels with decaying cargoes, or which have unusually foul or offensive holds, are subject to quarantine, and must be by the master, owner, pilot, or consignee reported to the Health Officer without delay. No such vessel must cross a right line drawn from Meiggs' wharf to Alcatraz Island until the Health Officer has boarded her and given the order required by law.

SEC. 3018. The Health Officer must board every vessel subject to quarantine or visitation by him, immediately on her arrival, make such examination and inspection of vessel, books, papers, or cargo, or of persons on board, under oath, as he may judge expedient, and determine whether the vessel should be ordered to quarantine, and if so, the period of quarantine.

SEC. 3019. No Captain or other officer in command of any passenger-carrying vessel of more than one hundred and fifty tons burden, nor of any vessel of more than one hundred and fifty tons burden having passengers on board, nor any owner, consignee, agent, or other person having charge of such vessel or vessels, can, under a penalty of not less than one hundred dollars nor more than one thousand dollars, land, or permit to be landed, any passenger from the vessel until he has presented his bill of health to the Health Officer, and received a permit from that officer to land such passengers, except in such cases as the Health Officer deems it safe to give the permit before seeing the bill of health.

SEC. 3020. The following fees may be collected by the Health Officer: For giving a permit to land freight or passengers, or both, from any vessel of less than one thousand tons burden, from any port out of this State, two and a half dollars; from any port in this State, one dollar

and a quarter; from any passenger-carrying vessel of more than one thousand tons burden, three dollars and seventy-five cents; for vessels of more than one thousand tons burden, carrying no passengers, two dollars and fifty cents; for vaccination, from each person, one dollar.

SEC. 3021. The Board of Health may enforce compulsory vaccination on passengers in infected ships or coming from infected ports.

SEC. 3022. The Board of Health may provide suitable hospitals, to be situated at or near Saucelito, and furnish and supply the same with nurses and attachés, and remove thereto all persons afflicted with cholera, smallpox, yellow, typhus, or ship fever.

SEC. 3023. The Health Officer must keep a record of all births, deaths, and interments occurring in the City and County of San Francisco. Such records, when filed, must be deposited in the office of the County Recorder, and produced when required for public inspection.

SEC. 3024. Physicians and midwives must, on or before the fourth day of each month, make return to the Health Officer of all births, deaths, and the number of stillborn children occurring in their practice during the preceding month. In the absence of such attendants, the parent must make such report within thirty days after the birth of the child. Such returns must be made in accordance with the rules adopted and upon blanks furnished by the Board of Health.

SEC. 3025. No person must inter in the City and County of San Francisco any human body without having first obtained a physician's or Coroner's certificate, setting forth as near as possible the name, age, color, sex, place of birth, date, locality, and cause of death of the deceased; and physicians, when deaths occur in their practice, must give such certificates.

SEC. 3026. Superintendents of cemeteries within the boundaries of the City and County of San Francisco must return to the Health Officer on each Monday the names of all persons interred within their respective cemeteries for the preceding week, together with the certificates mentioned in the preceding section.

SEC. 3027. No Superintendent of a cemetery can remove or cause to be removed, disinter or cause to be disinterred, any corpse that has been deposited in the cemetery without a permit from the Health Officer, or by order of the Coroner.

SEC. 3028. Whenever a nuisance exists on property of any non-resident of the city and county, the Board of Supervisors may, on the recommendation of the Board of Health, cause the nuisance to be abated, and may allow and order paid out of the General Fund all proper charges and expenses incurred in abating such nuisance; and all sums so allowed and paid become a charge upon the property on which the nuisance existed, and may be recovered by an action against such property.

SEC. 3029. The Health Officer must keep in his office a book in which he must make an entry of all fees collected by him. He must pay all fees collected to the City and County Treasurer weekly, to the credit of the General Fund.

SEC. 3030. The Health Officer must execute an official bond, to be approved by the Board of Health, in the sum of ten thousand dollars.

SEC. 3031. Any member of the Board of Health, Deputy Health Officer, or Secretary of the Health Department, is empowered to administer oaths on business connected with that Department.

SEC. 3032. Whenever any cause of action arises under any of the

provisions of this Chapter, suit may be maintained therein, in the name of the Health Officer, in any District Court of this State.

ARTICLE IV.

HEALTH REGULATIONS FOR THE CITY OF SACRAMENTO.

SEC. 3042. The Board of Trustees of the City of Sacramento may establish by ordinance a Board of Health therefor, to consist of five practicing physicians, graduates of a medical college of recognized respectability, and the President of the Board of Trustees is ex officio President of the Board.

SEC. 3043. The members of the Board hold their offices at the pleasure of the appointing power.

SEC. 3044. The Board of Health of the City of Sacramento has a general supervision of all the matters appertaining to the sanitary condition of the city, and may make such rules and regulations in relation thereto as are not inconsistent with law.

SEC. 3045. The Board of Health may locate and establish pest houses, and cause to be removed thereto and kept any person having a contagious or infectious disease; may discontinue or remove the same, and make such rules and regulations regarding the conduct of the same as are needful.

SEC. 3046. The Board of Health must exercise a general supervision over the death records of the City of Sacramento, and may adopt such forms and regulations for the use and government of physicians, undertakers, and Superintendents of cemeteries, as in their judgment may be best calculated to secure reliable statistics of the mortality in the city and prevent the spread of disease.

SEC. 3047. The Board of Trustees of the City of Sacramento must, by ordinance or otherwise, provide for enforcing such orders and regulations as the Board of Health may from time to time adopt; and in times of epidemics, or when deemed necessary by the Board of Health, a Health Officer must be employed to enforce the laws in relation to the sanitary condition of said city.

SEC. 3048. All expenses necessarily incurred in carrying out the provisions of this Article must be provided for by the Board of Trustees of the City of Sacramento, who may make appropriations therefor out of the Special Street Fund, if the same is sufficient; if not, they may by taxation provide a Fund therefor.

SEC. 3049. The Board of Trustees must fix the compensation of the Board of Health and the Health Officer.

ARTICLE V.

HEALTH AND QUARANTINE OF OTHER CITIES, TOWNS, AND HARBORS.

SEC. 3059. The Board of Supervisors of any county in which there is a port of entry or harbor, for which there is not otherwise provided health and quarantine regulations, may, by an ordinance, adopt the whole or any part of the provisions of Article III of this Chapter,

appoint a Board of Health, or Health Officer, locate quarantine grounds when necessary, and provide for the enforcement of health and quarantine regulations.

SEC. 3060. In like manner the Board of Supervisors of any county in which there is an unincorporated city or town, for which there is not otherwise provided a Board of Health, or health regulations, in time of epidemics, or the existence of contagious or infectious diseases, may, by an ordinance, adopt for such city or town, in whole or in part, the provisions of Article IV of this Chapter, for some definite period of time, and appoint therefor a Board of Health.

SEC. 3061. The Trustees, Council, or other corresponding Board of any incorporated town or city in this State, may, by ordinance, adopt the whole or any part of Articles III and IV of this Chapter, or of either of them, as provided in the preceding section for the Boards of Supervisors.

SEC. 3062. In the place of appointing a Board of Health, the Board of Supervisors, or the city or town authorities, may appoint a Health Officer, with all the duties and powers of the Board of Health and Health Officer, as specified in the two preceding Articles.

SEC. 3063. *It shall be the duty of every householder in the State, to report, in writing, to the Secretary of the State Board of Health, or to the Health Officer of the township or county in which he resides, immediately, the name of every person boarding at his or her house, whom he or she have reason to believe to be sick of cholera or smallpox, any deaths occurring at his or her house from such diseases; and every person who shall violate these provisions shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the County Jail not more than six months, or by both fine and imprisonment.*

SEC. 3064. All necessary expenses of enforcing this Article are charges against the counties, cities, or towns, respectively, for the payment of which the county, city, or town may levy a per capita tax of not exceeding three dollars, or a property tax of not exceeding one fourth of one per cent yearly until the same is paid.

CHAPTER III.

REGISTRY OF BIRTHS, MARRIAGES, AND DEATHS.

SEC. 3073. All persons who perform the marriage ceremony must keep a registry of the time of each marriage so celebrated, the residence, the name in full, the place of birth, the age and condition of each party, and whether either party has ever been before married; if so, to whom, and whether the person with whom such former marriage was contracted is living or dead.

SEC. 3074. All physicians and professional midwives must keep a registry of the time of each birth at which they assist professionally, the sex and color of the child, and the names and residence of the parents.

SEC. 3075. Physicians who have attended deceased persons in their last sickness, clergymen who have officiated at a funeral, coroners who

hold inquests, and sextons who have buried deceased persons, must each keep a registry of the name, age, residence, and time of death of such person.

SEC. 3076. All persons registering *marriages*, births, or deaths, must quarterly file with the County Recorder a certified copy of their register. All such certificates must specify as near as may be ascertained, the name in full, age, occupation, term of residence in the city or county, birthplace, condition, whether single or married, widow or widower, color, last place of residence, and cause of death of all decedents.

SEC. 3077. If at any birth no physician or midwife attends, the parents must make the report.

SEC. 3078. The Recorder must * * * keep separate registers, to be known as the "*Register of Marriages*," "*Register of Births*," and the "*Register of Deaths*," in which the *marriages*, births, and deaths certified to him must be numbered in the order in which they are reported to him. There must be stated in each register, in separate columns properly headed, the various facts contained in the certificates, and the name and official or clerical position of the person making the report. The Recorder must carefully examine each report, and register the same *marriage*, birth, or death, but once, although it may be reported by different persons.

SEC. 3079. The County Recorder must every three months transmit to the Secretary of the State Board of Health at Sacramento City a certified abstract of the registers of births, marriages, and deaths, prepared in the manner prescribed in the instructions of the Secretary, and upon blanks to be furnished by him for that purpose.

SEC. 3080. The persons reporting births and deaths to the Recorder * * * must be primarily paid by the parents or other next of kin to the person whose *marriage*, birth, or death is reported, and the fee allowed by law for recording a marriage. In case no fee is paid to the person reporting a birth or death to the Recorder by the parents or next of kin of the person reported, the same must nevertheless be reported and registered, and the Board of Supervisors must pay from the General Fund of the county a fee of not exceeding ten cents for each name reported to the person reporting and the Recorder registering births and deaths.

SEC. 3081. Any person on whom a duty is imposed by this Chapter who fails, neglects, or refuses to perform the same as herein required, is liable to a penalty of *five hundred* dollars, to be recovered by the District Attorney of the proper county for the use of the General Fund of such county.

CHAPTER IV.

DISSECTION.

SEC. 3093. Any physician or surgeon of this State, or any medical student under the authority of any such physician or surgeon, may obtain, as hereinafter provided, and have in his possession human dead bodies, or the parts thereof, for the purposes of anatomical inquiry or instruction.

SEC. 3094. Any Sheriff, Coroner, Keeper of a County Poorhouse,

public Hospital, County Jail, or State Prison, or the Mayor or Board of Supervisors of the City of San Francisco, must surrender the dead bodies of such persons as are required to be buried at the public expense to any physician or surgeon, to be by him used for the advancement of anatomical science, preference being always given to medical schools by law established in this State, for their use in the instruction of medical students. But if such deceased person during his last sickness requested to be buried, or if within twenty-four hours after his death some person claiming to be of kindred or a friend of the deceased requires the body to be buried, or if such deceased person was a stranger or traveler who suddenly died before making himself known, such dead body must be buried without dissection.

SEC. 3095. Every physician or surgeon, before receiving a dead body, must give to the Board or officer surrendering the same to him, a certificate from the Medical Society of the county in which he resides, or if there is none, from the Board of Supervisors of the same, that he is a fit person to receive such dead body. He must also give a bond, with two sureties, that each body so by him received will be used only for the promotion of anatomical science, and that it will be used for such purpose within this State only, and so as in no event to outrage the public feeling.

CHAPTER V.

CEMETERIES AND SEPULTURE.

SEC. 3105. The title to lands used as a public cemetery or graveyard, situated in or near to any city, town, or village, and used by the inhabitants thereof continuously without interruption as a burial ground for five years, is vested in the inhabitants of such city, town, or village, and the lands must not be used for any other purpose than a public cemetery.

SEC. 3106. Six or more human bodies being buried at one place constitutes the place a cemetery.

SEC. 3107. Incorporated cities or towns, and for unincorporated towns or villages, the Supervisors of the county, may survey, lay out, and dedicate of the public lands situate in or near such city, town, or village, not exceeding five acres, for cemetery and burial purposes. The survey and description thereof, together with a certified copy of the order made constituting the same a cemetery, must be recorded in the Recorder's office of the county in which the same is located.

SEC. 3108. The inhabitants of any city, town, village, or neighborhood, may by subscription or otherwise purchase, or receive by gift or donation, lands not exceeding five acres to be used as a cemetery, the title thereof to be vested in such inhabitants, and when once dedicated to use for burial purposes must thereafter be used for no other purpose.

SEC. 3109. The public cemeteries of cities, towns, villages, or neighborhoods, must be inclosed and laid off into lots, and the general management, conduct, and regulation of interments, permits to inter, or remove interred bodies, the disposition of lots and keeping the same in order, is under the jurisdiction and control of the cities and towns owning the same, if incorporated; if not, then under the jurisdiction

and control of the Board of Supervisors of the county in which they are situated.

SEC. 3110. The Boards of Supervisors, City Trustees, or other corresponding authorities having jurisdiction and control of cemeteries, may make general rules and regulations therefor, and appoint Sextons or other officers to enforce obedience to the same, with such other powers and duties regarding the cemetery as they may deem necessary.

SEC. 3111. The authority having control of a public cemetery must require a register of name, age, birthplace, and date of death and burial of every body interred therein, to be kept by the Sexton or other officer, open to public inspection.

CHAPTER LXXXI.

An Act concerning the attendance of physicians and surgeons in certain cases, and to provide payment for making chemical and post-mortem examinations.

[Approved February 8, 1872.]

The People of the State of California, represented in Senate and Assembly, do enact as follows:

SECTION 1. The Coroner or other officer holding an inquest upon the body of a deceased person may summon a physician or surgeon to inspect the body, or a chemist to make an analysis of the contents of the stomach, or the tissues of the body of the deceased, and to give a professional opinion as to the cause of the death.

SEC. 2. Any physician, surgeon, or chemist, professionally attending as a witness on an inquest, or upon a trial of any person charged with murder or manslaughter, or in cases *de lunatico inquirendo*, as above provided, shall be allowed a reasonable compensation for such attendance or examination by the Board of Supervisors, upon the written certificate of the Court or officer requiring such services, as to the extent and supposed value of the same; *provided*, that such certificate shall not be conclusive as to the amount of compensation.

CHAPTER CCCLXXV.

An Act to establish and maintain a dispensary in the City of Sacramento.

[Approved March 23, 1872.]

The People of the State of California, represented in Senate and Assembly, do enact as follows:

SECTION 1. The Board of Health of the City of Sacramento, consisting of Ira E. Oatman, T. M. Logan, F. W. Hatch, W. R. Cluness, and G. L. Simmons, are hereby empowered and required to establish a Dispensary for the accommodation of the sick poor of the City and County

of Sacramento on the lot belonging to the County of Sacramento, on the northwest corner of Seventh and I streets in said city; and all bills approved by said Board of Health for this purpose shall be allowed and ordered paid, by the Board of Supervisors of the County of Sacramento, out of the General Fund; *provided*, that all expense for the establishment of such Dispensary and furnishing of the same shall not exceed two thousand dollars.

SEC. 2. *The Board of Health shall annually elect a regularly educated physician to take charge of said Dispensary, and to keep an office open therein, and shall give advice and medicines to poor out patients and applicants from the Howard Benevolent Society, and receive orders for visits to the sick poor at their homes, and said physician shall receive a compensation not to exceed fifty dollars per month.*

SEC. 3. During the absence of the medical attendant the Dispensary shall be accessible, at all times of the day or night, to any member of the police of the City of Sacramento, to any practicing physician, or to any officer of the Howard Benevolent Society who may desire to obtain accommodations for patients in cases of accident or sudden sickness, where an immediate removal to the County Hospital is impracticable, or where such an attempt would endanger life.

SEC. 4. No person possessed of property of any description shall receive assistance, as an out patient, from the Dispensary, and no cases of venereal disease in any form shall be treated at the expense of the county in this institution.

SEC. 5. After the establishment of the Dispensary by the Board of Health of the City of Sacramento, the said Board shall exercise a general supervision over its concerns, adopting such improvements in its management as from time to time may be required. They shall require from the attending physician stated reports in regard to cases treated by him, and certify to the Board of Supervisors of the county as to the correctness of all bills for medicines or incidental expenses; *provided*, that in no case shall any bills for medicines and incidental expenses be allowed which exceed in the aggregate the sum of one hundred dollars per month. No compensation shall be allowed to any member of the Board of Health for services rendered in carrying out the purposes of this Act.

SEC. 6. The Board of Supervisors of Sacramento County are hereby required to allow and order paid out of the Hospital Fund all bills for the maintenance of this Dispensary which may be approved by the Board of Health of the City of Sacramento, in compliance with the preceding sections.

SEC. 7. This Act shall take effect and be in force from and after its passage.

CHAPTER CCCCLIII.

An Act to provide further accommodation for the insane of the State of California, and to provide a Special Fund therefor.

[Approved March 27, 1872.]

The People of the State of California, represented in Senate and Assembly, do enact as follows:

SECTION 1. There shall be established, upon a site to be selected by Commissioners chosen therefor, an institution for the care and treatment of the insane, to be designated as the — State Asylum for the Insane, the blank before the word State in this section to be filled by the name of the place, city, town, or county where said Asylum shall be located.

SEC. 2. The Governor is hereby authorized to and shall appoint three Commissioners to select a site for said institution.

SEC. 3. The selection of the site for said Asylum shall be confined to the central and western portion of the State, embracing the central coast counties and the counties bordering on or near the Bays of San Francisco, San Pablo, and Suisun, and lying west of the valley of the Sacramento and San Joaquin rivers, the Commissioners being authorized, upon the above named basis, to fix more definitely the limits to the territory to be admitted and considered in the selection of said site. In making a selection of a site for said institution the Commissioners shall not be influenced by any offers of money or property, but shall decide upon said site solely upon the grounds of healthfulness, adaptability to the purposes of the institution, and convenience of access from the different parts of the State.

SEC. 4. Said Commissioners shall qualify by taking an official oath within ten days after their appointment; and within fifteen days after their appointment they shall meet and organize by selecting of their number a Chairman and Secretary; they shall have power to receive by gift or to contract for the purchase of such site for the location of said Asylum, subject, however, to the approval of the Governor and Secretary of the State Board of Health, to whom they shall report their action in the premises, addressed to the Governor, within four months after their appointment; they shall keep a record of their proceedings; they shall receive for their services ten dollars per day and their traveling expenses; *provided*, the entire compensation shall not exceed the sum of three hundred dollars for each Commissioner. Their bills shall be audited by the State Board of Examiners and paid out of the General Fund. When the site by them selected and their official acts and contracts to secure the same to the State for the use aforesaid shall be duly approved, as herein provided, their powers, duties, and compensation shall cease.

SEC. 5. When the site for said Asylum is determined and the title thereto obtained in accordance with the foregoing sections of this Act, the Governor shall appoint five Directors to manage the affairs of the institution, three of whom shall be residents of the county in which said institution shall be located; and he shall designate at the time of such appointment their respective terms of office, in accordance with the following classification, to wit: three of said Directors shall serve for two years, and two of said Directors shall serve for four years from

the time of their appointment. Their successors shall be appointed by the Governor, and shall hold their offices for the term of four years and until their successors are appointed and qualified. In case of a vacancy occurring in said Board the Governor shall appoint, in the manner aforesaid, to fill the unexpired term.

SEC. 6. The Directors provided for in the preceding section shall qualify by taking the usual oath of office, and shall enter upon their duties within thirty days after their appointment.

SEC. 7. The Directors shall procure and adopt plans, drawings, and specifications for the construction of the Asylum and other buildings, and the improvement of the grounds, and shall make provision for the erection of the buildings, and cause the same to be carried out in accordance with such plans and specifications, and on such terms as they may deem proper; *provided*, such plans, drawings, specifications, provisions, and the terms thereof shall be submitted to the Governor, G. A. Shurtleff, and E. T. Wilkins, jointly, whom the Directors shall consult and advise with prior to the final adoption of any plans for such building; and further *provided*, that the Directors shall not adopt any plans for the Asylum or other buildings that will not secure the building and finishing of at least one section thereof suitable for the accommodation and treatment of patients with the appropriation named in this Act.

SEC. 8. The Directors and other officers shall have no interest, direct or indirect, in the furnishing of any building materials, or in any contracts for the same, or in any contract for labor in the erection of said Asylum, nor in any contract for any labor, material, or supplies for the maintenance thereof.

SEC. 9. The plans and specifications for said Asylum shall be upon the basis of accommodating not exceeding five hundred patients at any one time.

SEC. 10. The Board of Directors shall be known by the name and style of the Board of Directors of the — State Asylum for the Insane. The blank before the word "State" in this section to be filled by the name of the place, city, town, or county where said Asylum shall be located, and by that name they and their successors shall be known in law, may sue and be sued in any of the Courts of this State, and may receive, take, and hold property, both real and personal, in trust for the State for the use and benefit of said Asylum. They shall have power to govern, manage, and administer the affairs of said Asylum, and make and adopt by-laws for their own government and the government of said Asylum. They shall cause to be kept a full and correct record of their proceedings, which shall be open at all times to the inspection of any citizen desiring to examine the same. They shall hold stated meetings at the Asylum monthly, and a majority of the Board shall constitute a quorum for the transaction of business. They shall make a thorough inquiry into all the departments of labor and expense, and a careful examination of the buildings, property, and general condition of the Asylum. They shall submit to the Governor, biennially, on or before the first day of September next preceding the regular session of the Legislature, a report showing the receipts and expenditures, the general condition of the Asylum, the number of patients under treatment during the two preceding years, and such other matters touching the general affairs of the Asylum as they may deem advisable. As soon as they shall deem it necessary for the proper completion, furnishing, and management of said institution, the Board of Directors shall elect a Medical Superintendent, whose term of office shall be four years

and until his successor is elected and qualified; and thenceforth the Directors shall elect the Medical Superintendent when it becomes necessary by the expiration of his term of office, or by the occurrence of a vacancy in said office.

SEC. 11. The Board of Directors shall elect a Treasurer, who shall not be of their number, and who shall hold his office for two years, and until his successor is elected and qualified. Before entering upon his duties the Treasurer shall qualify by taking the usual oath of office, and shall give bond with good and sufficient sureties in a sum not less than thirty thousand dollars, payable to the people of the State of California, to be approved by the Board of Directors, and conditioned for the faithful performance of his duties according to law, and for the delivery to his successor of all books, papers, vouchers, moneys, and effects held by him by virtue of his office. The Board of Directors may increase the amount of the bonds of the Treasurer, and may require additional surety at any time, and they may remove him for good and sufficient cause. The Treasurer shall act as the Secretary of the Board of Directors, and have charge of their books and accounts; and he shall render to the State Board of Examiners monthly a detailed statement, under oath, of the expense of the preceding month, and shall perform such other duties as the Board of Directors may require. He shall have a yearly salary of six hundred dollars, payable quarterly out of any moneys appropriated to the use of the Asylum.

SEC. 12. Each Director shall receive as his compensation ten dollars for each meeting of the Board at which he shall be present, payable out of any moneys appropriated to the use of the Asylum; *provided*, that the sum paid to such Director shall not exceed one hundred and thirty dollars per annum; and *provided* further, that any Director whose residence is out of the county in which said Asylum is situated shall be allowed for traveling expenses mileage at the rate of ten cents per mile for the distance necessarily traveled in attending the monthly meetings of the Board.

SEC. 13. The Medical Superintendent shall be a well educated and experienced physician, and a regular graduate in medicine, and shall have practiced at least five years from the date of his diploma. He shall be the chief executive officer of the Asylum. He shall have the general superintendence of the buildings, grounds, and property thereof, subject to the laws and regulations of the Directors. He shall have the control of the patients, prescribe or direct their treatment, adopt sanitary measures for their welfare, and discharge such as in his opinion have permanently recovered their reason. He shall appoint, with the approval of the Directors, as many attendants and assistants as he may think necessary for the efficient and economical care and management of the Asylum, and, with the consent of the Board of Directors, fix their compensation and discharge any of them. He shall prescribe the duties of the subordinate officers and the employés, maintain discipline among them, and enforce obedience to the laws, rules, and regulations adopted for the government of the institution. He shall estimate quarterly, in advance, the probable expenses of the Asylum, and submit the same to the Board of Directors at their last regular meeting preceding the commencement of such quarter for their approval. And the Controller is hereby authorized and directed to draw his warrants for the amount of said estimate approved by the Directors, as soon as the same shall have been approved by the State Board of Examiners, in three equal sums, in favor of the Directors, to be drawn monthly; and

the Treasurer is authorized and directed to pay the same out of any moneys appropriated by law for the use and benefit of said Asylum. The Medical Superintendent shall estimate and report to the Directors the amount, kind, and quality of provisions, fuel, and clothing required for the six months ending on the first day of May and November of each year; and the Directors shall then advertise for contracts for furnishing said supplies for three successive weeks in one newspaper published in the vicinity of the Asylum, and in one newspaper published in each of the Cities of San Francisco and Sacramento. The contract or contracts shall be awarded to the lowest bidder or bidders, upon their giving to the Board of Directors satisfactory security for the faithful performance of the same. Necessary expenditures, other than those for provisions, fuel, and clothing, may be made by the Medical Superintendent, subject to the approval of the Board of Directors. The Medical Superintendent shall cause to be kept full and correct accounts and records of his official transactions from day to day, in books provided for that purpose, in the mode prescribed in the by-laws. He shall see that his accounts are fully made up to the first day of August of each year, and shall submit his annual report to the Board of Directors as soon thereafter as practicable. He shall reside at the Asylum and shall not engage in private practice, but shall be at all times in attendance at the Asylum unless he obtain leave of absence from the President of the Board of Directors. He shall receive an annual salary of three thousand dollars, payable monthly as other attachés are paid; and he and his family, if he have one, shall be furnished room, household furniture, provisions, fuel, and lights, at and from the supplies of the Asylum.

SEC. 14. When said Asylum shall be ready for the admission of patients, and thenceforth when a vacancy occurs in the office hereby authorized, the Directors, upon the nomination of the Medical Superintendent, shall elect an Assistant Physician, who shall be a graduate in medicine. He shall qualify by taking the usual oath of office. His salary shall be fixed by the Board of Directors, to be paid in the same manner as the other employés, and not to exceed two thousand dollars a year. He shall reside at the Asylum, and not be allowed to engage in private practice, but shall be in attendance at all times at the Asylum, except when he may obtain leave of absence from the Medical Superintendent. He shall perform such duties as may be directed by the Medical Superintendent and prescribed by the by-laws. He and his family, if he have any, shall be supplied with room, board, fuel, and lights at the Asylum. His term of office shall be four years, and until his successor is appointed and qualified. The duties of the Medical Superintendent, in his absence or sickness, shall be performed by the Assistant Physician.

SEC. 15. The Directors may remove any officer or employé of the Asylum by a vote of four fifths of their number, for habitual and willful neglect of duty, or for refusal to comply with the requirements of the laws, by-laws, and regulations made for the establishment and government of the institution.

SEC. 16. The County Judge of any county in this State, and the Probate Judge of the City and County of San Francisco, shall, upon application under oath, setting forth that a person, by reason of insanity, is dangerous to be at large, cause such person to be brought before him; and he shall summon to appear, at the same time and place, two or more witnesses who well knew the accused during the time of the alleged in-

sanity, who shall testify under oath as to conversation, manners, and general conduct upon which said charge of insanity is based; and shall also cause to appear before him, at the same time and place, two physicians, who shall be regular graduates in medicine, before whom the Judge shall examine the charge; and if, after a careful hearing of the case and a personal examination of the alleged insane person, the said physicians shall certify on oath that the person examined is insane, and the case is of a recent or curable character, or that the said insane person is of a homicidal, suicidal, or incendiary disposition, or that from any other violent symptoms the said insane person would be dangerous to his or her own life, or to the lives or property of the community in which he or she may live; and if said physicians shall also certify to the name, age, nativity, residence, occupation, length of time in this State, State last from, previous habits, premonitory symptoms, apparent cause and class of insanity, duration of the disease and present condition, as nearly as can be ascertained by inquiry and examination; and if the Judge shall be satisfied that the facts revealed in the examination establish the existence of the insanity of the person accused, and that it is of a recent or curable nature, or of a homicidal, suicidal, or incendiary character, or that from the violence of the symptoms the said insane person would be dangerous to his or her own life, or to the lives or property of others, if at large, he shall direct the Sheriff of the county, or some suitable person, to convey to and place in charge of the officers of the Insane Asylum of this State, to which the order is directed, such insane person, and shall transmit a copy of the complaint and commitment and physicians' certificate, which shall always be in the form as furnished to the Courts by the Medical Superintendent of said Asylum; and the person taking such insane person to the Insane Asylum shall be allowed therefor the same fees as are allowed by law to the Sheriff in such cases, to be paid in like manner. And the physicians attending the examination aforesaid shall be allowed by the Board of Supervisors of the county in which the examination is had five dollars each, unless they are otherwise paid.

SEC. 17. No case of idiocy, imbecility, harmless, chronic, mental unsoundness, or acute mania a potu shall be committed to this Asylum; and whenever in the opinion of the Superintendent, after a careful examination of the case of any person committed, it shall be satisfactorily ascertained by the said Superintendent that the party had been unlawfully committed, and that he or she came under the rule of exemptions provided for in this section, he shall have the authority to discharge such person so unlawfully committed, and return him or her to the county from which committed, at the expense of said county.

SEC. 18. The Judge shall inquire into the ability of insane persons committed by him to the Asylum to bear the actual charges and expenses for the time that such person may remain in the Asylum. In case an insane person committed to the Asylum under the provisions of this Act shall be possessed of real or personal property sufficient to pay such charges and expenses, the Judge shall appoint a guardian for such person, who shall be subject to all the provisions of the general laws of this State in relation to guardians, as far as the same are applicable; and when there is not sufficient money in the hands of the guardian the Judge may order a sale of property of such insane person, or so much thereof as may be necessary, and from the proceeds of such sale the guardian shall pay to the Board of Directors the sum fixed upon by them each month, quarterly in advance, for the maintenance of such ward;

and he also, out of the proceeds of such sale, or such other funds as he may have belonging to his ward, pay for such clothing as the Medical Superintendent shall from time to time furnish to such insane person; and he shall give a bond, with good and sufficient sureties, payable to the Board of Directors and approved by the Judge, for the faithful performance of the duties required of him by this Act as long as the property of his insane ward is sufficient for the purpose. The Board of Directors shall furnish such blank bonds as are required by this section to the several County Judges in this State, and to the Probate Judge in the City and County of San Francisco. A breach of any bond provided for in this Act may be prosecuted in the District Court of any county in this State in which any one of the obligors may reside, and the same shall be prosecuted by the District Attorney of the county in which the action shall be brought, and shall be conducted throughout and the judgment shall be enforced as in a civil action for the recovery of a debt. Should there remain in the hands of the Board of Directors or their Treasurer, at the time any insane person is discharged, any money unexpended so paid by the guardian or kindred, the same shall be refunded; *provided*, that the Board of Directors shall not be required to refund any money for a fraction of a month; but upon the death of any insane person, after paying the ordinary burial expenses, the remainder of any moneys received from the guardian or on deposit with the Board of Directors or their Treasurer, shall be refunded to the person or persons thereto entitled on demand. Any moneys found on the person of an insane person at the time of arrest, shall be certified to by the Judge and sent with such person to the Asylum, there to be delivered to the Medical Superintendent, who shall deliver the same to the Treasurer, to be applied to payment of the expenses of such person while in the Asylum; but upon the recovery of such insane person all sums not exceeding one hundred dollars shall be returned to him when he is discharged from the Asylum. The kindred or friends of an inmate of the Asylum may receive such inmate therefrom, on their giving satisfactory evidence to the Judge of the Court issuing the commitment that they or any of them are capable and suited to take charge of and give proper care to such insane person and give protection against any of his acts as an insane person. If such satisfactory evidence appear to the Judge he may issue an order, directed to the Medical Superintendent of the Asylum, for the removal of such person; but the Medical Superintendent shall reject all other orders or applications for the release or removal of any insane person. And if after such removal it is brought to the knowledge of the Judge, by verified statement, that the person thus removed is not cared for properly, or is dangerous to persons or property by reason of such want of care, he may order such person returned to the Asylum.

SEC. 19. Non-residents of this State, conveyed or coming herein while insane, shall not be committed to or supported in the State Asylum for the insane; but this prohibition shall not prevent the commitment to and temporary care in said Asylum of persons stricken with insanity while traveling, or temporarily sojourning in the State, or sailors attacked with insanity upon the high seas and first arriving thereafter in some port within this State.

SEC. 20. When a section of the Asylum provided for in this Act is ready for the accommodation of patients, the Judges in the counties more convenient to said Asylum than to the Asylum at Stockton, who are authorized herein to commit insane persons, shall order all persons

thereafter by them duly examined and declared insane, to the institution established by this Act; but the County Judges of this State or the Probate Judge of the City and County of San Francisco may order the transfer of any insane person committed from their respective counties from one State Asylum to the other, upon the joint recommendation or consent of the Medical Superintendents of each, the cost of such transfer to be paid by the guardian or friends of the patient transferred.

SEC. 21. The Directors of the Insane Asylum at Stockton are authorized and directed to cause to be finished the new building occupied by the females of that institution by erecting the north wing of said building, which shall be made to correspond with the south wing thereof, and in accordance with the plan originally adopted.

SEC. 22. To carry out the provisions of this Act the State Board of Equalization shall levy at the time other State taxes are levied, in the years eighteen hundred and seventy-two and eighteen hundred and seventy-three, a tax of such number of cents on each one hundred dollars value of taxable property in the State as will produce a net sum of one hundred and seventy-five thousand dollars in each of said years, for the purpose of creating a special Fund, to be denominated the "Special Insane Asylum Fund;" and the assessment and collection of said tax shall be performed in the same manner and at the same time as the ad valorem State tax for other purposes is assessed and collected.

SEC. 23. Of the money collected from the special tax herein provided, two fifths, as it accrues, shall be expended in completing and furnishing the building at Stockton occupied by the females of that Asylum, until the sum drawn therefor amounts to one hundred and thirteen thousand dollars; and three fifths of the money derived from said tax, together with any sum remaining of the two fifths, over and above one hundred and thirteen thousand dollars, shall be expended in establishing a new Asylum according to the provisions of this Act; *provided*, one section thereof, on the plan adopted, shall first be built, furnished, and opened, as soon as practicable, for the admission of patients; and further *provided*, if it be so opened before the meeting of the next Legislature, the maintenance thereof shall be temporarily paid out of this Special Fund until other provision shall be made by law for its support.

SEC. 24. The Controller of State is hereby authorized and directed to draw his warrants on the Treasurer of State in favor of the respective Directors of each Asylum, on their requisition upon the Fund hereby created, in accordance with the provisions of this Act; *provided*, not more than fifteen thousand dollars shall be drawn at any one time for building purposes; and *provided* further, that a detailed account of the expenditures of the sum previously drawn shall be filed with the State Board of Examiners by said Directors before the approval of any other requisition from the same Board of Directors for money for the purposes aforesaid.

SEC. 25. This Act shall take effect from and after its passage.

[*This statute needs simplifying, and the law made more general. A Board of Examiners might be appointed by the Governor in every city or town where physicians' prescriptions are compounded; said Board to consist of three physicians or pharmacutists from each city or town, who shall examine all applicants for a license to practice pharmacy, and who shall have power to issue a license or diploma to such as are found to be properly qualified.*]

CHAPTER CCCCLIV.

An Act to regulate the practice of pharmacy in the City and County of San Francisco.

[Approved March 28, 1872.]

The People of the State of California, represented in Senate and Assembly, do enact as follows:

SECTION 1. From and after the first day of June, A. D. eighteen hundred and seventy-two, it shall be unlawful for any person, unless a registered pharmacist or a registered assistant pharmacist within the meaning of this Act, to open or conduct any pharmacy or store for retailing, dispensing, or compounding medicines or poisons, except as hereinafter provided.

SEC. 2. Any person, in order to be registered, must be either a graduate in pharmacy, a licentiate in pharmacy, a practicing pharmacist, or a practicing assistant pharmacist.

SEC. 3. Graduates in pharmacy must be such as had four years experience in stores where prescriptions of medical practitioners are compounded, and each must have obtained a diploma from a college of pharmacy within the United States, or from an authorized foreign institution or Examining Board. Licentiates in pharmacy are such as have had four years experience in stores where prescriptions of medical practitioners are compounded, and shall have passed an examination before the Board of Pharmacy; also such foreign pharmacists as shall present satisfactory credentials or certificates of their attainments to the Board of Pharmacy. Practicing pharmacists are such persons only as at or prior to the passage of this Act have kept and continue to keep open store in the City and County of San Francisco for compounding and dispensing of the prescriptions of medical practitioners, and for the sale of medicines and poisons. Practicing assistants in pharmacy are such persons of not less than eighteen years of age as at or prior to the passage of this Act have had two years experience in the compounding of the prescriptions of medical practitioners in the store of a practicing pharmacist, and shall furnish satisfactory evidence of the same to the Board of Pharmacy. Persons of less than eighteen years of age, or less than four years experience, are, as junior assistants or apprentices, to be under the immediate supervision of a registered pharmacist or assistant pharmacist until they have become graduates or licentiates in pharmacy.

SEC. 4. The members of the California Pharmaceutical Society residing in San Francisco shall, during the month of May, eighteen hundred and seventy-two, and every third year thereafter, during the month of

May, elect five of the most competent pharmacists of San Francisco to serve as a Board of Pharmacy. The members of this Board shall, within thirty days after their appointment, individually take and subscribe before the County Clerk an oath faithfully and impartially to discharge the duties prescribed by this Act. They shall hold office for the term of three years, and until their successors are appointed and qualified, and in each case of vacancy the said Board of Examiners shall select from three nominees elected at a meeting of the said society. The Board shall organize for the transaction of business in the City of San Francisco by the election for the whole term of President and Secretary. Three members of the Board shall constitute a quorum. They shall meet at least quarterly, and have power to make by-laws for the proper fulfillment of their duties. The duties of this Board shall be to transact all business pertaining to the legal regulations of the practice of pharmacy and the retailing of poisons, and to examine and register all pharmacists. All persons applying for examination shall pay to the Secretary a fee of five dollars; and on passing the examination, shall be furnished with a certificate signed by the President and the Examiners.

SEC. 5. It shall be the duty of the Secretary to keep a book of registration open at some convenient place, of which due notice shall be given through the public press, in which shall be entered, under the supervision of the Board, the names, titles, qualifications, and places of business of all persons coming under the provisions of this Act; and it shall be the duty of all such persons to appear before the Board or its Secretary, within a period of thirty days after its organization, and be registered. The fee for the first registration of graduates, licentiates, and practicing pharmacists, shall be two dollars; for assistants, one dollar. It shall be the duty of every person registered to have his registration renewed every year in the month of January, the fee for which shall be one dollar, and upon changing his place of business or engagement, to notify the Secretary within thirty days. The Secretary shall make all necessary alterations in the register, and notify all persons, on or before the tenth day of February, who shall not have renewed their registration, for which notification the Secretary shall receive a fee of fifty cents; and in case no answer is received within fourteen days, such name shall be erased, unless an excuse satisfactory to the Board be presented; *provided*, always, that the said name shall be restored on payment of fifty dollars to the Secretary of the Board within one year. The Secretary shall give receipts for all moneys received by him, and pay said moneys to the Treasurer of the California Pharmaceutical Society, taking his receipt therefor. The salary of the Board of Pharmacy and of the Secretary shall be fixed by the Board of Directors of the California Pharmaceutical Society, to be paid out of the registration fees and fines.

SEC. 6. From and after the first day of June, eighteen hundred and seventy-two, every registered pharmacist who shall knowingly, intentionally, and fraudulently adulterate or cause to be adulterated, any drugs, chemicals, or medicinal preparation, shall be held guilty of a misdemeanor, and on conviction shall be fined fifty dollars in the first, one hundred dollars in the second, and on conviction in the third case his name shall be erased from the register.

SEC. 7. *And be it further enacted*, That on and after the first day of June, eighteen hundred and seventy-two, it shall be unlawful for any person in the City and County of San Francisco to retail any poisons enumerated in Schedules "A" and "B," appended to this Act, without distinctly labeling the bottle, box, vessel, or paper, and wrapper or cover

in which said poison is contained, with the name of the article, the word "Poison," and the name and place of business of the seller. Nor shall it be lawful for any person to sell or deliver any poison enumerated in Schedules "A" and "B" to any person, unless on due inquiry it is found that the person is aware of its poisonous character, and that it is to be used for a legitimate purpose. Nor shall it be lawful for any person to sell or deliver any poison included in Schedule "A" without, before delivering to the buyer, making or causing to be made an entry in a book kept for that purpose only, stating the date of sale, the name and address of the purchaser, the name and quantity of the poison sold, the purpose for which it is stated by the purchaser to be required, and the name of the dispenser; said book to be always open for inspection by the proper authorities, and to be preserved for at least five years. The provisions of this section shall not apply to the dispensing of poisons (in not unusual doses or quantities) upon the prescriptions of practitioners of medicine.

SEC. 8. Be it provided that nothing contained in the foregoing section shall apply to or interfere with the business of any practitioner of medicine who does not keep open shop for the dispensing and retailing of medicines and poisons, nor with the business of wholesale dealers.

SEC. 9. Any person who shall attempt to procure registration for himself or for any other person under this Act by making or causing to be made any false representations, shall be deemed guilty of a misdemeanor, and shall upon conviction thereof be fined in a sum not exceeding five hundred dollars. Any registered pharmacist who shall permit the compounding and dispensing of prescriptions of medical practitioners in his store by persons not registered, except by junior assistants under the direct supervision of registered persons, or any person not registered who shall keep open shop for the retailing or dispensing of medicines and poisons, or who shall fraudulently represent himself to be registered, and any registered person who shall fail to comply with the regulations of this Act in regard to the retailing and dispensing of poisons, shall for every such offense be deemed guilty of a misdemeanor, and on conviction thereof be fined fifty dollars.

SEC. 10. All persons registered under this Act shall be exempt and free from all jury duty in the City and County of San Francisco.

SEC. 11. All Acts and parts of Acts in conflict with the provisions of this Act, in so far as they so conflict, are hereby repealed.

SCHEDULE "A."

Arsenic and its preparations, corrosive sublimate, white precipitate, red precipitate, biniodide of mercury, cyanide of potassium, hydrocyanic acid, strychnia, and all other poisonous vegetable alkaloids and their salts, essential oil of bitter almonds, opium and its preparations, except paregoric, and other preparations of opium containing less than two grains to the ounce.

SCHEDULE "B."

Aconite, belladonna, colchicum, conium, nux vomica, henbane, savin, ergot, cotton root, cantharides, digitalis, and their pharmaceutical preparations, croton oil, chloroform, chloral hydrate, sulphate of zinc, sugar of lead, mineral acids, carbolic acid, and oxalic acid.

REPORTS OF THE JOINT COMMITTEES

ON

Swamp and Overflowed Lands,

AND

LAND MONOPOLY,

PRESENTED AT THE

TWENTIETH SESSION OF THE LEGISLATURE OF CALIFORNIA.



SACRAMENTO:

G. H. SPRINGER, STATE PRINTER.

1874.

REPORT

OF THE

SWAMP LAND INVESTIGATING COMMITTEE.

REPORT.

Mr. SPEAKER: The special committee, acting in conjunction with the committee of the Senate as a joint committee, appointed by you to investigate into certain alleged frauds in swamp land matters in this State, have diligently worked at the arduous task imposed on it, but, the close of the session drawing near, we are warned of the necessity of reporting the result of our examinations. Although we have but skimmed the surface of the mighty mass of evidence that could be obtained to show the utter looseness and extremely wanton manner in which the swamp lands, and the funds accruing from their sale, have been managed in this State, we have examined a large number of witnesses from various portions of the State, and, from evidence obtained, conclude:

That, through the connivance of parties, surveyors were appointed who segregated lands as swamp, which were not so in fact. The corruption existing in the land department of the General Government has aided this system of fraud.

Again, the loose laws of the State, governing all classes of State lands, has enabled wealthy parties to obtain much of it under circumstances which, in some countries, where laws were more rigid and terms less refined, would be termed fraudulent; but we can only designate it as keen foresight and wise (for the land grabbers) construction of loose, unwholesome laws.

There are many titles which, perhaps, might be set aside, but no good could possibly result, under existing laws, because the same lands are covered by the filings of land speculators, equally avaricious with the present owners, leaving no chance for any benefit to accrue to the State.

The management of the funds arising from the sale of swamp lands has not been less badly managed than the lands. Under the action of the Board of State Swamp Land Commissioners, provided by the law of eighteen hundred and sixty-one, which Board had the management of all the Swamp Land Funds, and under whose management all reclamation work was done, a most flagrant wrong was perpetrated. The law provided that the proceeds from the sale of lands should be paid back to the original owners on certain conditions, but this Board, after spending a large amount for reclamation purposes, in several districts in the State, divided the balance of the money pro rata among all the districts of the State, when the law was passed abolishing their office.

By this unprecedented action, parties holding lands in the several districts in which reclamation work was done by this Board, received

back a large amount more per acre from the State Treasury than they paid in, while, on the other hand, the funds remaining, and which were apportioned to the remaining counties, is not sufficient to pay the required amount back. That this is manifest injustice to a large portion of the swamp land purchasers is apparent, and the Legislature should make some provision for reimbursing the injured parties. The law should also be amended so as to authorize the investment of the Swamp Land Funds in the several County Treasuries in county, State, or Government bonds, as by that means the interest on the money would not be lost entirely, and by such a course it would place the money beyond temptation.

In order that future Legislatures may not have to do as this one has done—appoint committees, who, from lack of time and want of information as a basis to start on, are unable to fully examine matters—we advise the passage of a bill to continue the investigation commenced by this and the Land Monopoly Committee, and the appointment of a Commission to perform the work. We are satisfied that such a Commission would be able to probe these matters to the bottom and adduce much information that would be of value to future Legislatures, and would solve for all time complicated and vexed land questions.

Your committee would also advise the passage of a law to place in the School Fund all moneys paid upon lands that from their nature require only nominal reclamation, as there are many acres of land held in this State which are not in fact swamp land, but they have been segregated, listed, and patented as such.

Your committee is satisfied, from evidence, that the grossest frauds have been committed in swamp land matters in this State, but are unable to suggest proper remedies for lack of full information.

A great amount of interest has attached to what is known as the "Inyo Grab," attempted to be perpetrated by one Josiah Earle; and as this is a representative outrage of a general class of operations, your committee has felt constrained to give the subject matter a thorough investigation. Summarizing the evidence, we find: That the speculator in this case is the Register of the United States Land Office, at Independence, Inyo County—a position doubtless secured for the purpose of furthering his grand scheme of obtaining land not subject to location under the swamp land laws of the State, unless deception and fraud could be invoked to his assistance. This enterprising gentleman made application for one hundred and thirty-three thousand acres in Inyo County, about twelve thousand acres of which we find, by abundant evidence, are covered by bona fide preëmption and homestead settlers, who have lived upon those lands for years, and many of whom are the oldest residents in the county.

The lands were surveyed by the General Government some years since, and returned as high, which they unquestionably are, as there can be no crops produced thereon without extensive and constant irrigation. This Mr. Earle (the applicant and Register in question), then made a peremptory demand upon Mr. Hardenbergh, the United States Surveyor General for this State, for the privilege of naming a local Deputy United States Surveyor to do this particular work, and of course in the interest of his friend Earle. This, fortunately for the unsuspecting settlers who knew nothing of it, was refused; as, had it been done, there would have been but little hope of redress for the settlers—had Earle been successful in procuring the selection of a tool ready to do his bidding in the segregation as "swamp" of these high, dry lands,

and as Earle had himself appointed Register of the United States Land Office, probably in order to exercise his official position to further his personal interest in connection with this black and infamous transaction.

In furtherance of the same line of policy one Joseph Seeley, acting as Deputy County Surveyor, received and forwarded the applications of Earle, and, to the mind of your committee, must have been aware of the perjury committed by Earle, stating that the land was "swamp," and that "to his actual knowledge no residents or claimants" were in possession of the land.

With a less honest or vigilant Surveyor General—one who, for instance, would have listened with willing ear to Earle's statement that "we can get all the land over there"—this outrageous attempt at fraud and robbery might have been practicable, but the applications were refused, and the papers held for some hoped for authorized examination.

Necessarily your committee started in uninformed, and not until after tedious investigation could we be able to recommend such legislation as would effectually reach and cure the gigantic evils which have grown out of the reckless land policy of the Government, and to provide a correction of the laws which have been so manifestly in the interest of the speculator.

But if nothing further is done, the laws which have been enacted by this Legislature upon the subject will, we think, work a very material reform, and will certainly stop in the future such outrages as those so nearly accomplished in Sierra Valley, which were so ably inquired into and reported upon at the last session of the Legislature. Formerly, it was the custom to permit filings upon real or alleged swamp lands, and to allow the applications to lie unacted upon for an indefinite number of years, at the option of the applicant. In these cases, parties on the "inside" of the Land Office "ring" had but to wait until some one should come along who wanted to take up these lands in good faith, and they would *sell out* to them their "rights" to land on which they had never paid a cent, and never intended to pay a cent. Or, if the nature of the land was doubtful, they would postpone all investigation until the height of floods during the rainy season, when surveyors, in interest with themselves, would be sent out to make favorable reports as to the "swampy" character of the land. In the mountain valleys and on the other side of the Sierras, the lands are overflowed from melting snow exactly when the water is most wanted; but the simple presence of the water is all that is necessary to show to the speculator that the land is "swamp" and it therefore presents an inviting opportunity for his grasping cupidity.

The attention of your committee has been directed to the facts connected with the subject matter of a petition signed by some eighty citizens residing about Humboldt Bay, in which it is set forth that one J. W. C. Coleman, of Sacramento County, did, in eighteen hundred and seventy-one, file upon seven thousand acres of swamp land. Up to this present day the residents adversely interested presumed that certificates of purchase had been issued upon the land, although so much attention had been attracted thereto that, at one session, a bill passed one House of the Legislature withdrawing it from sale by the State, because it was not "swamp" land. Soon after assuming office, the present Surveyor General of the State proceeded to *raze* those applications, and finding that the surveys, in some cases, covered navigable sloughs, and in many others the lands were within two miles of incorporated towns, the

attempted "grab" was finally reduced to about two thousand acres, for which applications still remain on file.

We are constrained to add that the State Land Department at the present time, under the conduct of the Hon. Robert Gardner, Surveyor General, is far better managed than it appears to have been in former years. This much we are pleased to say in behalf of an honest and faithful officer. From evidence adduced, we are sorry we cannot say as much for some who have preceded him.

FERGUSON,
Chairman.

REPORT

OF THE

Surveyor General to the Assembly,

IN RELATION TO

SWAMP AND OVERFLOWED LANDS.

REPORT.

To the honorable Assembly of the State of California:

In compliance with your resolution, under date of January twentieth, eighteen hundred and seventy-four, requiring information of this office concerning surveys of lands returned as swamp and overflowed, which are not shown to be such by the State segregation, or by the United States surveys, I have the honor to submit the following statement, showing the name of the applicant, the number of acres standing in his name, and the total for each county, to wit:

COLUSA COUNTY.

Name.	Acres.
Geo. H. Purkett	480
Gideon Geil	40
S. M. Bishop.....	920
W. C. Belcher.....	200
Total.....	1,640

FRESNO COUNTY.

Name.	Acres.
A. C. Bradford.....	2,240
James M. Johnson.....	2,120
Total.....	4,360

LASSEN COUNTY.

Name.	Acres.
W. H. Crane.....	400
W. C. Wright.....	200
Geo. W. Long.....	600
John H. McNee.....	20,240
Total.....	21,440

INYO COUNTY.

Name.	Acres.
Joseph Seeley.....	1,080
Josiah Earle.....	1,486 $\frac{63}{100}$
John A. Lank.....	320
Total.....	2,886 $\frac{63}{100}$

SOLANO COUNTY.

Name.	Acres.
E. H. Marshall.....	40
Geo. T. Elliott.....	40
Total	80

SUTTER COUNTY.

Name.	Acres.
S. J. Stabler.....	40

SISKIYOU COUNTY.

Name.	Acres.
C. J. Dorris.....	510
W. H. Bowman.....	160
A. J. Bryant.....	80
Milan Stewart.....	240
J. C. Porter.....	440
James Quinna.....	1,300
Jesse D. Carr.....	16,358
Total	19,088

SHASTA COUNTY.

Name.	Acres.
Benj. S. Start.....	120
E. P. Littrel.....	160
A. J. Curtiss.....	80
Joseph Naudles.....	160
Total	520

PLUMAS COUNTY.

Name.	Acres.
J. W. Willey.....	240
Edmund White.....	440
John J. Hallam.....	840
W. B. Taylor.....	5,680
E. H. Gould.....	1,080
Total	8,280

TEHAMA COUNTY.

Name.	Acres.
G. G. Kimball.....	200

In addition to the foregoing, certified copies of nineteen affidavits and applications to the County Surveyor of Inyo County, for swamp lands, have been received at this office in the name of Josiah Earle, and three in the name of other parties. These applications do not designate legal subdivisions, but simply say all of the swamp and overflowed lands in certain sections, without giving the area. Upon referring to the United States township plat of the townships mentioned, I found that no swamp lands were shown, but the sections claimed were returned as high land.

Within the past two years a large number of swamp land surveys have been rejected by me, and returned to the proper County Surveyor, for the reason that there was no official evidence of the swampy character of the land embraced, and the same was shown to be high land by the United States maps, as was the case with lands in Sierra and other mountain valleys. When claimants have notified the office that they would demand an investigation before the United States Surveyor General, in order to prove the swampy character of the land, I have allowed their surveys to remain on file.

Very respectfully,

ROBERT GARDNER,
Surveyor General.

TESTIMONY

TAKEN BY THE

SWAMP LAND INVESTIGATING COMMITTEE,

1874.

TESTIMONY.

FIRST NIGHT'S PROCEEDINGS.

FEBRUARY 7th, 1874.

Present—Ferguson, Chairman, and Messrs. Lindsey, McMurry, Ham-mitt, Kercheval, and Parker.

TESTIMONY OF W. S. POWELL.

W. S. POWELL, called, sworn, and examined:

Mr. Ferguson—What is your full name; W. S. Powell?

Answer—Yes, sir.

Question—The object of this investigation, Mr. Powell, is to discover facts—the entire truth—in allegations of frauds that have been committed in the listing and selection of swamp and overflowed lands in this State, or lands supposed to be.

A.—Well, I am very familiar with the whole history of the swamp and overflowed lands in this State.

Q.—Do you remember and know about the Baker Grant, that was granted by the State of California to Baker and others?

A.—I know nothing of my own knowledge; know there was such a grant, because I have been over it.

Q.—Do you know anything about the character of the lands?

A.—I may say I have been on the whole of them.

Q.—Do you know what was done towards reclaiming those lands?

A.—I can say very frankly, that I am thoroughly conversant with the land, and it is my candid judgment that there has never been anything done towards reclaiming those lands, except nominally.

Q.—Do you know what parties pretend to say they have done?

A.—Nothing of my own knowledge.

Q.—Who had charge of those lands?

A.—Thomas Baker.

Q.—Himself?

A.—Yes, sir; and all I know about it is what Baker told me. He told me that he could put in two dams, one on the North Fork of King's

River, and the other at the lower end of Buena Vista Lake, and thoroughly reclaim them.

Mr. Lindsey—I think it is Buena Vista Lake.

The Witness—By putting in two dams there, he should reclaim those lands; and I understood from him that he could put them in at an approximate cost of sixty-five to seventy-five thousand dollars. The lands extend down into Fresno County, and he was going to reclaim those lands in Fresno by putting in a dam in the North Fork of King's River.

Q.—You are familiar with King's River?

A.—Yes, sir. Prior to eighteen hundred and sixty-two there was a large fork; there was a great deal of water when the water was up, and they threw a dam across that, I believe.

Mr. Lindsey—Do you know who owns, or claims to own, that land included in that Montgomery Grant, as it is termed in the law?

A.—I think so. The portion of the land lying in Fresno County is owned by J. G. James, Selig & Co. I believe those lands are settled. Jones owns some land.

Q.—Burrell owns some of that land?

A.—Yes, sir. C. Burrell, the heirs of W. F. Montgomery, deceased; those are the principal ones. There may be small bits, say, for instance, three hundred and twenty acres, something like that, belongs to other parties. These gentlemen own the grant.

Q.—Do you know whether the patent was issued by the State or not?

A.—I understand that patents have been made. I am the agent of these parties in a great many matters. They have told me that patents had been issued. I do know positively that a patent has been issued.

Q.—Who owns the land in Kern and Tulare?

A.—I think it belongs to Livermore, Chester & Co. I know Mr. Livermore owns some; whether Chester owns, or has an interest, I do not know.

Q.—Do you think that land was ever reclaimed, as provided for?

A.—I know positively, it was not.

Q.—Do you know the amount of land in that section of the country that has been taken up as swamp and overflowed land that was not swamp land?

A.—No, sir.

[To Mr. Kercheval]—Swamp lands in Tulare are different from the swamp lands in other parts of the State. They are overflowed from rivers—Swamp Land District Number Eighty-one, for instance. At the time it was surveyed it was an impenetrable swamp. When it was surveyed in eighteen hundred and fifty-three and eighteen hundred and fifty-four, and as late as eighteen hundred and fifty-eight, it was one waving mass of tules. That land, to-day, is built upon, and the expenditures that have been made upon it were merely nominal. A freshet in eighteen hundred and sixty-two cut a channel right through it that perfectly reclaimed it. After that channel was cut the river was turned off some ten miles.

Mr. Kercheval—Had that land been purchased previously to this cut being made there?

A.—Yes, sir. The land was surveyed in eighteen hundred and fifty-three and eighteen hundred and fifty-four; was purchased about eighteen hundred and fifty-nine. When these lands were surveyed there were no sales.

Q.—They were surveyed as swamp lands at the time?

A.—Yes, sir; positively swamp lands. This land was entirely unfit for cultivation. In the immediate vicinity of Visalia it was almost impossible to go through it in the Winter.

[To Mr. Lindsey]—I know that it was then swamp land. To-day there are tracts of land in the county that are, in fact, swamp and overflowed lands, that were not segregated because they were then dry land. There is an extensive swamp of two thousand acres, which was swamp land, which, in eighteen hundred and fifty, could not be penetrated for its swampy nature, at all. That land is now lying idle for want of moisture.

Mr. Kercheval—The river has changed?

A.—Yes, sir.

Mr. Parker—Did you ever apply for the segregation of lands in Inyo County, as swamp and overflowed?

A.—I did not, because I considered the segregated land surveyed. I applied for large tracts, but they were not returned as such by the Government Surveyors.

Q.—For yourself, individually, or in association with others?

A.—I was in association with others. I was almost acting as agent for other parties. I desire in this connection to state that I have been informed that I was considered in association with a Mr. Earle, who lives over there. He is a gentleman that I am not acquainted with, and with whom I am antagonistic in this matter of swamp lands.

Q.—Who were your associates?

A.—Private individuals.

Mr. Parker—I propose showing that that land is not swamp and overflowed land, and shall most certainly insist on your answering the question, in order to ascertain who is attempting frauds. Have you applied for land in the neighborhood of Cottonwood Creek, Inyo County?

A.—No, sir; I have not.

Q.—Have you surveyed lands in that section?

A.—I was with a party of surveyors who were surveying some lands about twenty miles south of Cottonwoodville, but what lands were surveyed I don't know; I do not understand anything at all about it, but am under the impression that there were certain lands in the vicinity of Cottonwoodville, as near as I can judge, to the amount of two hundred acres, that I claimed to be swamp and overflowed lands, and I think it will be so determined.

Q.—For how much?

A.—Two hundred acres, I think; I merely judged from riding past on the train, that there was a bit of swamp land containing about two hundred acres. That is the only swamp land that I have any knowledge of in that vicinity.

Mr. Parker—Are you acquainted on Bishop Creek?

A.—I know nothing about Inyo County except the roads I may have been upon.

Q.—Why did you make an application for lands there, then?

A.—I was informed by several parties that there were large tracts of land that ought to have been returned as swamp, but until the Surveyor General of the Land Office made his decision defining them I did not consider these were swamp and overflowed lands, but since that decision I made the application entirely in doubt, upon general principles. I calculated to go over at the earliest opportunity and see it. I have no definite knowledge about it; I was merely there half a day.

Mr. McMurry—Didn't you have to make affidavits that there were no settlers there, or that the land has been segregated for six months?

A.—At the time I made these applications I endeavored to ascertain to which lands the settlers belonged.

Q.—From whom?

A.—The Deputy Surveyor of Inyo County; and he threw out, or attempted to throw out, all lands upon which they were settled, having no knowledge except as you have it here. I then authorized the Deputy Surveyor to erase my application, knowing it to be valueless.

Mr. Parker—Have you heard from Mr. Earle in relation to these projects?

A.—Never. I have had no conversation except as follows. I am very glad that the opportunity has been afforded to make this explanation. When I made this application for this land I went into the office. I had some plats that I prepared in investigating the lands. I was informed that Mr. Earle had made application for these same lands. I examined these applications, and I found that Mr. Earle had made application for some four or five thousand acres; that the Surveyor had made applications for two thousand acres. The other applications were merely as memoranda in pencil. I told the Surveyor that I should disregard these, and apply for myself. I was fortified in my idea that they were swamp and overflowed lands by seeing these applications. I met Mr. Earle in the road; we had about five minutes' conversation. I told him that I had applied for those lands; was very sorry that I was compelled to interfere with his arrangements, but his applications were not good. Well, he said that under the law his applications were good, because they could not be avoided. That was the whole of the conversation; he got into his vehicle, and I got into mine. He came over to see me at Visalia, came into my house, and we had probably five minutes conversation. He wanted to know what I was going to do about these lands. I told him I was going to make an application.

Q.—How would you go to work to make an application? In point of fact, I want to ascertain how you would attempt to prove these lands to be swamp and overflowed under the law?

A.—I would take the testimony of individuals who lived there.

Q.—At what season of the year?

A.—I should probably go over there somewhere in the neighborhood of June or July.

Q.—Have you ever obtained any evidence as to whether they are swamp and overflowed lands or not? Is it susceptible of cultivation without water?

A.—So I have been informed.

Mr. Kercheval—In your selection of land you would have to have it surveyed?

A.—There must be an actual survey made by a surveyor—a County Surveyor, examined and legally authorized. He makes a return to the Surveyor General's office, and upon their return by the Government Surveyors, the maps and plats are filed in his office.

Mr. Parker—You are United States Deputy Surveyor yourself, are you not?

A.—I have been.

Q.—At the time you made these applications?

A.—No, sir, it was not necessary. The lands had been surveyed and subdivided. The question of fact now arises, whether the land is within the purview of the Act of eighteen hundred and fifty. No Government

officers ever had anything to do with it. The State provides a mode of getting it; that if I see a piece of land that I think is swamp and overflowed land, I make an application for it to the Surveyor General of the State of California, after it has been returned; if there are no adverse claims he approves; but if it has not been returned he refuses, and they have to make an *ex parte* showing before him. He then demands a hearing before the United States Surveyor General, to whom the case is referred as a judicial officer. Witnesses are brought before him and it is actually tried as a question of fact whether it was within the purview of the Act of eighteen hundred and fifty.

Q.—What notification do they have to attend these trials?

A.—I never had a case of that kind where a case was contested before the Surveyor General. All that I know about it is from the statutes. I have never made any application, or had anything to do with any application, where they had not been returned as such by Government Surveyors.

Q.—Was this land that you applied for in Inyo County returned to you as surveyed land?

A.—No, sir. You asked me about giving notice to settlers. I have never had a case tried. The cases will be tried on the ground. The department now has decided that in this and in many other States surveys were made when the country was dry, and that the surveyors could not determine, being strangers; they merely know the country as it was when they saw the land.

Q.—You stated that you were acting as agent for the parties that actually did apply. Now who were the parties?

A.—I will tell the whole thing. Mr. Payne had some business at one time, and had spoken to me about these lands, as to whether they were swamp and overflowed lands. I believed that they were. He had secured business over there, and learned from outside conversation that this Mr. Earle was endeavoring to secure lands as swamp and overflowed lands. Mr. Payne came back, and came right to me, and, says he, "I believe that those lands are swamp and overflowed lands; anyhow let's make an effort to get them." I went over to Inyo County, expecting to find his applications on file over there; sent Payne word that they were not. I had no time to stop; made the application in my own name. Now, there is the whole history of the transaction.

Q.—Was Payne a United States land officer?

A.—He was Receiver in the Land Office. I don't know the lands the others went after in Inyo County, only from what has been told me outside.

Mr. Lindsey—Will you state what you know in reference to the condition of the swamp land district of Tulare County, in a financial point of view?

A.—There is nothing positive about this, within a few dollars. It is in debt about sixteen or seventeen hundred dollars. District Forty-five is probably in debt twenty-five hundred dollars; but there is money enough owing them to pay that debt. That district is thoroughly reclaimed; it is just as dry as this table.

Mr. McMurry—Was it reclaimed by nature, or by the parties owning it?

A.—It was reclaimed by the changing of the channel, and the land is perfectly dry. I know this, that the land was segregated by the United States Surveyor, in eighteen hundred and sixty-seven. All the land that was segregated afterwards received from the Secretary of the Interior a

transfer of the whole matter from the General Government to the State, and that this passed into private hands.

Q.—Forty-five and forty-six, Prairieville, is it not?

A.—Yes, sir. The question was submitted to the State Board of Commissioners; and the question was, whether it would be alleged this money was set apart to reclaim those lands. The money was actually used to reclaim them from drought.

Mr. Lindsey—Do you know anything about an island lately formed out of Tulare Lake?

A.—Not of my own knowledge. To what do you refer?

Q.—I want to know if any of those lands have been lately taken up?

A.—Well, I don't know, but I have been informed, and I don't know as it would be a very good place. I have been informed that there was an island, and that it has been reclaimed. In eighteen hundred and sixty-two the water all dried up. The lands were overflowed. Now, the water is ten or twelve feet lower, so it has been reclaimed. I don't know anything about it. There has been a good many living on it for the last two or three years.

Mr. McMurry—You spoke about not applying for land when you knew there were settlers upon it; has it not been the custom for speculators so to do?

A.—Not to my knowledge; I don't know anything about the Sierra Valley case, except from the reports and opinions; but my understanding is, that the application was for lands that had been listed as swamp, where it is not worth a straw to settle on; still, there were settlers there, and I understood that a good many of them had filed homesteads. They could have filed a possessory claim, as in this State all persons are protected.

Mr. Ferguson—You know under the old management that all the money that was received, was paid into the State Treasury. In reclaiming your own lands, was the money paid out of your own Fund?

A.—Yes, sir.

Q.—How came it depleted?

A.—I would hypothecate (?) that Tulare County got the money. The State Board of Swamp Land Commissioners had direct control of all moneys that had been paid into the State Treasury. It was a Fund, and the statute provided that parties owning could have those lands to segregate, and to appropriate all those lands. District Number One is the principal district; it contains twenty thousand acres. They take their money, all the time, out of the Treasury, and this Fund is constantly becoming short. I think there are eighty districts formed; then when the Act of eighteen hundred and sixty-eight was passed, they directed this General Fund to be divided in the county, pro rata. I don't know on what basis the distribution was made. We came out short; Tulare was six thousand dollars ahead; Fresno fifteen thousand dollars short; generally, as unpaid warrants. No district can have any warrants against the General Fund.

Q.—*Mr. Lindsey* says you employed him to make this transfer.

A.—I did that, in eighteen hundred and sixty-seven, and I never got a dollar yet. Says I, "I shall go against your bill, as long as you live." Generally there are no outstanding warrants against the legitimate warrants of the Swamp Land Committee. There may be general warrants for each individual district, for it was distributed.

Mr. Parker—Was it the intention of your principal to devote money towards reclamation of lands near Independence, that should be drawn

from the State at large; or would you have paid any money yourselves to reclaim it?

A.—It would depend entirely on the character of the land. I would not give a straw for a piece, if it was not reclaimed, whether it cost ten cents or ten dollars to reclaim it.

Q.—Can you tell me how it is that Mr. Earle would attempt to carry out his announced plan, so that he would introduce into the county ninety thousand dollars in money over and above what would be paid for the land?

A.—I don't know anything at all about it, but I suppose this is his idea.

TESTIMONY OF S. V. STEVENS.

S. V. STEVENS, called, sworn, and examined:

Mr. Parker—My main object is to ascertain the character of the sections of land that are applied for in Inyo. Tell us how much land there is that requires embankments or levees to render it susceptible to cultivation?

Answer—I don't know of any land that you have to keep water off; the great difficulty is to get water enough on.

Question—Have you any knowledge of this man Powell?

A.—Not more than I had heard that he had surveyed a number of sections up there in the mountains.

Q.—Do you credit the reports?

A.—I believe them to be true, from what I have heard.

Q.—What is the character of the land in Inyo?

Mr. Ferguson—That applied for by Josiah Earle?

A.—The land that I had heard that he had applied for in the neighborhood of Independence is sagebrush and sand—grass land sometimes, and sometimes it is not.

Q.—Any settlers on that land?

A.—Yes, sir; some of them have been there, I think, about ten years.

Q.—That land has been surveyed and subdivided?

A.—I think so.

Q.—Have those parties obtained patents?

A.—I don't know as to that; they are bona fide settlers.

Q.—Suppose those parties obtained patents for that land; if Earle should succeed in establishing them as swamp land and should obtain title to them as such—what mode of reclamation would be necessary in order to make it suitable for cultivation?

A.—No reclamation at all; or it would depend altogether upon getting water enough to raise anything.

Mr. Kercheval—Could ditches bring water to it?

A.—Yes, sir.

Q.—Well, sir, do you know what townships they have applied for?

Mr. Parker—I have very complete legal descriptions of them.

Mr. Ferguson—Do you know of your own knowledge where any of this land is located?

A.—I know the land, sir, perfectly, and the soil, but could not give you the numbers of the land that Mr. Lank has applied for. He has

not had water enough on it for drinking purposes, to my own knowledge.

Q.—You would not call that swamp land?

A.—There is not a swamp in the whole county.

Q.—In regard to this man Powell, you don't know anything of your own knowledge. Is it not notorious that he did survey there?

A.—Every man in the county supposed so; the people generally there talked about it. We heard that a party of surveyors was there. I don't say that he did survey; it was currently reported that he was up there with that party.

Q.—Has any of this land applied for by Powell been settled upon?

A.—It is all settled up; hard to get a piece of land up there in that district.

Q.—For farming?

A.—Yes, sir; where they can get water.

Q.—Water on it?

A.—Yes, sir; that is the only way to do anything with it. It has been one constant fight for water. There has never been any draining done there.

Mr. McMurry—Is there a stream running through that county?

A.—Owen's River runs through the valley.

Q.—Never rises?

A.—Never rises out of its banks.

Q.—Do you know about Cottonwood Creek; does that overflow?

A.—It starts at the head of the mountains there, runs down through rocks, principally, and comes right down on the baked sandbank. There has been some land which, I understand, parties have located as swamp and overflowed, they having been there all Summer. Grass would not grow high enough for the cattle to graze on it. I have been there about seven years.

Mr. Parker—What is the general feeling or sentiment existing among the people toward Mr. Earle?

A.—Well, the feeling when I left there was, that Mr. Earle had better stay in Washington or Sacramento, and not come back there.

SECOND NIGHT'S PROCEEDINGS.

FEBRUARY 9th, 1874.

Present—Ferguson, Chairman, and Messrs. McMurry and Parker.

TESTIMONY OF THERON REED.

THERON REED, called, sworn, and examined:

Mr. Parker—What is the general character of those farms on Bishop Creek?

Answer—The farms usually need irrigation; I guess they all irrigate their lands. I know less of those farms than any others in the county. I believe, however, they have ditches; the ditches are cut to them. The swamp and overflowed lands lie down next to the river. In some

places they are one hundred and fifty yards to a mile or half a mile wide. I can only tell by looking at the places where the tules grow. I call them swamp lands. The division of swamp lands is to put them into forty-acre tracts. If they will not grow cereals they are called swamp and overflowed lands.

Question—Do you know Garrettson's place?

A.—Yes.

Q.—Sneden's?

A.—Yes, sir; I have been on that land.

Q.—Is that swamp land?

A.—I should think not.

Q.—How much of the lands in the county, independent of those strips you assert to exist immediately adjoining the river, are swamp?

A.—I was there in April, and in November; not there in wet weather. Any piece of land that is overflowed three years out of five is swamp and overflowed land.

Q.—Now, how much of the land, outside of the tules, is overflowed?

A.—I can say I was there last year, in April and September; I never have been on the road in the Summer months.

Q.—How much of that in the tule district would be swamp land?

A.—The strip where the tules grow is eighty or ninety miles, up and down the river, from one hundred feet to a quarter of a mile wide, in places.

Mr. Parker—There is none of that land in question?

The Witness—This land may be dry five or three months; in the Summer it is overflowed. This Spring, there was a lake opposite the Town of Independence, three-quarters of a mile wide. I only speak of tule lands as swamp lands. I am speaking of my own observation; I never lived there.

Mr. McMurry—We will suppose you were speaking of swamps. Do you know of any other in the county?

A.—Not to my present knowledge. This town is four miles from the river. In July or August, the snow on the mountains melts and comes down on the valleys. I never have been there in August.

Q.—Who owns the swamp land?

A.—I know nothing about it.

Q.—Do you know anything about the operations of W. S. Powell?

A.—I have heard he and Payne have taken up the land there. Powell did say that he had some land up on the mountains; I think I heard him say so.

Q.—Did he ever survey any?

A.—I think he was in there, surveying, somewhere.

Q.—Do you know who were the associates of Earle?

A.—I don't know a word about it; don't know what he has got. Earle told me that he established his own swamp land district there. I have never even seen a map; know nothing about it at all?

Q.—Have you any idea how Earle is going to fulfill his promise of introducing foreign capital to the amount of one hundred thousand dollars, or such a matter?

A.—I presume, under the swamp land law, the money belongs to the county, and goes to reclaim swamp land. That is, devoted solely to reclaiming swamp land.

Q.—Do you know of your own knowledge that Earle can induce these people to enter into his district?

A.—I have never heard one word. He said he had an interest, and was going to establish an association.

Mr. Ferguson—Why or how was he going to interfere with Stevens' property up there?

A.—He was never going to interfere, if they were surveyed. The survey covers the Stevens timber lands; it can be taken up with University scrip. When I told him about it, he says, "No one shall ever touch them." He did not tell me that he had them surveyed. He said, "I think they cover Stevens' land." I think Powell himself would have to look up all those surveys to see if there was any timber lands.

Mr. Parker—State your opinion as to whether or not there is any possibility of Mr. Earle's obtaining title to those preëmption and homestead claims on Bishop Creek?

A.—I do not think there is a chance of his touching one of them; I don't think he can. They were there when he filed his applications. I don't know that he has filed one of them.

Q.—Do you think it is possible for him to prove that the lands (of Mr. Earle's location) are overflowed?

A.—I drove with him, with horse and buggy, for three miles. He said to me, "This is the richest grazing land I ever saw." It was not claimed, and no one was settled on it. I presume it is swamp land; that is, it is such as in our county is called swamp land; that is all the swamp land that I saw.

Q.—You have been at Lank's farm?

A.—I have been to his house.

Q.—Is that swamp land in where his house is?

A.—I should not suppose it was. I have been there a great many times. What there is in the valley I do not know.

Q.—Have you any knowledge of Mr. Earle's making propositions to the settlers there, to the effect that if they would fall in with his schemes he would take up their lands as swamp?

A.—I know nothing about it at all. All I know is that about a year and a half or two years ago Mr. Earle told me he was going in for the swamp land districts, and he proposed to the settlers that they should let their farms go in without objection, as swamp land, and then the money allowed for reclamation would come [back to them] under the swamp land law.

Q.—What appears to be the difficulty between Mr. Earle and Powell?

A.—I don't know what it is, any more than that they say Payne and Powell had "played out" Earle; that Mr. Powell had got the lands. I understood that it was Payne and Powell.

Q.—Did you interfere to prevent Mr. Payne's removal?

A.—No, sir, I did not; I should have written a letter to Mr. Sargent had I not forgotten it.

Mr. Parker—Didn't you tell me that you had written three or four letters to prevent his removal?

A.—No. I wrote one letter and didn't mail it. I should have written, but I forgot it until it was too late.

Q.—I want to know what the general feeling on Bishop Creek is regarding this man Earle?

A.—I can tell you as to Garrettson; he is very bitter towards Earle; what the public feeling is I don't know. He expressed a great desire to hang Earle; or to see him hung.

Q.—Can you suppose that Earle's proposed company would spend a dollar in reclamation except through some means of putting water on the land?

A.—No; that is not the method by which it is done.

Q.—Would farmers?

A.—It is not applied in that way.

Q.—In farming that land at Bishop Creek would the people spend a dollar to keep the water off of it?

A.—I don't know but they would. I could not say. I should not think they would. That would be my opinion—that they would not; still, I don't know.

Q.—Did you not hear about contests as to who should get the water about Independence?

A.—There it is, the fight to get the water all through the valley. In the valley lands it is always too wet for anything but grass. As to saying whether there is one hundred and thirty-three thousand acres of land there, I could not say whether there was or not. The lands along Bishop Creek are not swamp and overflowed lands; don't appear to look like swamp land to me. I always call it swamp land where the tules grow. You can easily see that if that land is under water three or four months, at certain seasons, it would be very different from what it is when I see it. When I see those lands they are elegant orchards, and produce crops, etc. There are no levees to keep the water off; but ditches to bring the water in. As to that, I have kept aloof, because the disputes will come before me as District Judge.

Q.—Will the investigations come before you?

A.—Of course the Payne and Powell dispute will. Their proposals, if rightly carried out, will bring money into Inyo County instead of the United States Treasury. The only man that owns this class of land there so far, is Seeley. He has applied for some two or three thousand acres. I believe I refused to come in with him, which I would have done if I had not been District Judge.

THIRD NIGHT'S PROCEEDINGS.

THURSDAY, February 12, 1874.

Present—Senator Lindsey; Assemblyman Ferguson, Hammitt, Kercheval, and Parker.

TESTIMONY OF J. F. HOUGHTON.

J. F. HOUGHTON, called, sworn, and examined:

Mr. Ferguson—The object of this committee is to make investigations into certain alleged frauds in the occupancy, or listing and selecting of swamp lands in this State, and certain alleged frauds as regards the proving up of the reclamation, etc., of said lands, and you have been summoned before this committee, knowing that you were at one time Surveyor General of the State, and occupying that position you are supposed to know something about the matter.

Mr. Lindsey—Mr. Houghton, during your term as Surveyor General, do you know anything of the grant that was made to Montgomery and Donner, and some others, of certain swamp lands in the Counties of Tulare, Kern, and Fresno?

Answer—Yes, sir; commonly called the Tulare Canal Grant.

Question—That patent was issued during your term as Surveyor General?

A.—Yes, sir.

Q.—In what manner did those parties secure a patent to those lands?

A.—It was by the Act of the Legislature. If you have got the statutes of sixty-two—I think there were three or four different Acts. The final Act was eighteen hundred and sixty-two, wasn't it?

Q.—It required them to reclaim the land, didn't it?

A.—Yes, sir, it required them to reclaim the land. I remember how it was then. The parties applying for a patent applied to the Governor and the Surveyor General under the law and represented the facts, and the Governor and Surveyor General inquired into the facts, and if everything proved correct the Governor issued the patent for the land. The parties appeared at my office, claiming that they had reclaimed the lands; and I looked over the law, and the parties that presented the claim were not satisfied with it. I went to the Governor and told him that the parties had come there and wanted a patent, and referred him to the law which they had shown to me, and asked him what we should do about it. He said the proper thing would be to appoint an engineer to go down and see the lands; and he asked if I could suggest any engineer. Well, there didn't one occur to me just at the time; yes, I don't know but I did suggest at that time an engineer who was here, simply because he had considerable reputation at that time. It was Mr. Jackson, who had been engineering the reclamation of some lands near this city, and ought to have some special knowledge of that kind of work. The Governor said at once, "He is just the man." I then sent for him to come before the Governor and myself, and we talked the matter over with him. He asked if any appropriation was made to pay the expenses which would be incurred; we said no, but we would both recommend the payment of a proper bill. Upon that, with a letter of instructions—I think I wrote him a long letter of instructions; I cannot state positively, but think I did—he went down, and was gone, I think, two months, and came back with a very extended report of the reclamation of the lands which this company claimed. He reported the lands which they claimed to have reclaimed nearly all of them wholly and thoroughly reclaimed, and large portions more partially reclaimed. I speak from memory, but cannot remember all the particulars of the report. He reported a very large portion of the land thoroughly reclaimed, and a large portion more partially reclaimed. The company also claimed that they were still going on with the work of reclamation, and would soon have a large amount more reclaimed. We refused to recognise any claim to any further reclamation, cutting it down to what was actually reclaimed, and gave them a patent for that which the engineer reported thoroughly reclaimed.

Q.—Well, what was done with the report?

A.—Of the engineer? I think it is on file in the Surveyor General's office; it was kept there up to the time I left there. It should be in the Governor's office if not there. We referred some portion of this to the Attorney General, and he drew up the deed releasing the title of the State to the lands.

Q.—It is customary, isn't it, to keep those proofs in the Surveyor General's office?

A.—Yes, sir. That is the only instance that occurred during my term of office, where such proofs were required.

Q.—During your term of office were there any lands that were not segregated by the United States as swamp lands?

A.—That were not segregated by the United States? Yes, sir.

Q.—In what portion of the State were those lands situated?

A.—Under the laws of the State parties were authorized to buy lands which were not segregated by the United States, upon proof by the affidavits of two or more witnesses, which was to accompany the application.

Mr. Lindsey—In this report, made in eighteen hundred and seventy-two, by a similar committee, there is a statement here in reference to township eighteen north, range one west. [Reads from the report.] Now, have you any knowledge of that, and can you explain that expedition?

A.—I know the occasion of it, which I can tell the committee in a very few words. Oh, that is a possibility; it is only twenty-eight or thirty miles from the township to the United States Land Office, at Marysville.

Mr. Ferguson—Well, what was the occasion?

A.—Well, it is rather a long story. In township seventeen and eighteen north, range one west, previous to the survey, a great many settlers had gone in there, and had inclosed over one hundred and sixty acres each, that they had had under cultivation for a great many years. A rumor came that the railroad company were about to file a map of their route, and when that was filed no preëmptor could get a title to over one hundred and sixty acres of land, and they would loose the balance. In that emergency they applied to the County Surveyor for a plan to save their lands, and urged the necessity of surveying those townships immediately. A Deputy Surveyor was detailed to survey this township, and the survey was made very quick, and the returns sent to the United States Land Office, and a copy to the Marysville Land Office; and within two or three days thereafter the map was filed. Meanwhile a man had been employed by the settlers to locate school land warrants, in order that they might hold more than one hundred and sixty acres. It was possible to do it, and it was done. The railroad company contested the matter for two years, but the department decided it to be regular.

Mr. Hammitt—When was it that this patent was given to the canal company?

A.—I think it was the close of the year eighteen hundred and sixty-two; it might have been eighteen hundred and sixty three. I think it was later than that, for it was during the term of Governor Low. I think it must have been issued in eighteen hundred and sixty-four.

Mr. Ferguson—It was during your term under Governor Low?

A.—Yes, sir. I am slightly mistaken. I was mistaken in my first testimony that it was in eighteen hundred and sixty-two, for I think it was later than that; I think it was eighteen hundred and sixty-four. This is entirely new to me—this running back twelve years—and I have some difficulty in recalling these matters.

Mr. Lindsey—Do you have any correct data or knowledge of the amount of unredeemed Controller's warrants against the State?

A.—Yes, sir; I have been very busy preparing that for some time

past. I thought that was to be a part of your investigation. The total amount outstanding is eighty-eight thousand seven hundred and one dollars and seventy-nine cents. The total amount ever issued was five hundred and forty-four thousand and fifteen dollars.

Q.—Well, I am not very well posted in the real situation of this swamp land matter, but as I understand it now, there is no general fund coming to the State?

A.—Yes, sir. The law required the payments to be made into the State Treasury, and required all warrants to be returned to the State Treasurer.

Q.—Does it show that they belong to any particular district?

A.—Yes, sir. I can give you all of them.

Q.—We would be glad to have all of them.

A.—District Number One, which is in Sacramento and Sutter Counties, has twelve thousand two hundred and twenty-two dollars outstanding; District Number Two, which is in Sacramento County, has fourteen thousand and sixty-four dollars; District Number Five, in San Joaquin County, has nine thousand nine hundred and seventy-nine dollars; District Number Six, in Tulare County, has one hundred and twenty dollars. I presume that may be taken up now, but it was there at the last report.

Q.—It is about one thousand seven hundred dollars in that district, and there is a bill in the Senate now to pay that.

A.—I am speaking of the Controller's warrants only. District Number Seven, in Solano County, has four hundred and ninety-four dollars; District Number Sixteen, in Tulare County, has thirty six dollars only outstanding; District Number Seventeen, in San Joaquin County, has eight dollars; District Number Eighteen, in Yolo, Solano, and Sacramento Counties, partly in each county, has forty nine thousand four hundred and sixty-one dollars; District Number Thirty-eight, in Sacramento County, has two hundred and sixteen dollars; District Number Forty-one, in Solano County, has eight hundred and thirty-seven dollars; in District Number Forty-eight, Tulare County, there is three hundred and eighty-one dollars outstanding; in District Number Fifty, Sacramento County, there is one hundred dollars; in District Number Fifty-four, Sacramento County, there is seven hundred and seventy-nine dollars; making a total of eighty-eight thousand seven hundred and one dollars. In giving these figures I have omitted the cents. If the committee would like information about what these warrants represent, I can give them all of that—the history from the beginning.

Mr. Hammitt—That is the class of information we especially want. I am not posted in that matter.

A.—I may be a little in error about dates; but in eighteen hundred and sixty and eighteen hundred and sixty one—I think in both of those years—the Legislature passed Acts creating a Board of Swamp Land Commissioners. General A. B. Winn, B. B. Redding and others were named in the bill as a Board of Swamp Land Commissioners, whose duty it was to take charge of the swamp and overflowed lands of the State for the purpose of reclamation. Upon the petition of one third of the landholders in any large district of swamp lands, certifying that they wanted their lands reclaimed, it was the duty of this Commission to appoint an engineer who was to report a plan for reclamation. If the plan of reclamation reported was satisfactory to the Swamp Land Commissioners, they were authorized by law to approve of the plan, and to advertise for propositions for reclamation according to the plan. Bids were called for, and the contracts were let to the lowest respon-

sible bidders. As the work progressed the engineer made estimates of the contractor's work and certified it to the Board of Swamp Land Commissioners. The Commissioners examined the report of the engineer; if satisfactory, approved the account of the contractor and certified it to the State Board of Examiners. They examined the claim, and if they approved it they certified it to the Controller, who drew his warrant, in favor of the contractor, for the amount approved. The districts were numbered, and all of the money arising from the sale of the lands in any district went into this particular Swamp Land District Fund; so that each one of those warrants outstanding represents so much work done towards the reclamation of the district. By an Act of April, eighteen hundred and sixty-four, I think it was, these warrants on eight of the districts, one, two, three, five, eight, eighteen, and thirty-eight—there are only seven, but there were eight of them—were by law to bear interest at the rate of ten per cent per annum, for the reason that the lands not being paid for, there was not money enough in the district fund to pay the contractors. The Commissioners thought, as the purchasers of land were paying ten per cent interest, and the contractors were waiting for their money—because they did not receive the principal sum, it would not be more than right. It was intended that the payments on the land should wipe out the warrants. The intention was to draw just enough warrants so that the proceeds from the land should pay them; and among the proceeds of the land was so much interest due, and warrants were drawn against it. In some instances there were a few more Controller's warrants out than the land would pay for. In paying for these lands the parties only paid these warrants at their face; but if any warrant is payable at any time it will bear interest. Those warrants are now held, a great many of them, by the contractors who did the work, who have been waiting from eighteen hundred and sixty-four to eighteen hundred and sixty-eight—from that time to this, for something to pay their warrants; and they have not attracted the attention of capitalists much, for the simple reason that the State has not made proper arrangements for their payment. A great deal of the expenses of this Commission was paid out of the General Swamp Land Fund; twenty per cent was to go towards the payment of the Commissioners' expenses.

Mr. Ferguson—In the case of the lands in those counties that didn't draw any money, and ultimately redeemed, what redress would those parties have—how would they secure the balance?

A.—I don't know.

Mr. Kercheval—I have an idea. I don't know whether I am right or wrong; if I am either, you can tell me. I will give you my ideas of it: There has been a good deal of land that has not been properly located; that is, there has been no legal survey. I would ask you now to state—you have been Surveyor General—to state what you would require? For instance, an application is made to the County Surveyor to locate lands; now what is the routine that would be required to be pursued?

A.—The question you wish to ask is about the actual survey of the lands. For instance, a County Surveyor had run the exterior boundaries of a large body of swamp land in his county; he knew every subdivision of land within those boundaries. If he had a map of all the swamp lands by the exterior boundaries, he could prepare a map of a small portion of them without even going into the field; and that was regarded as a proper survey.

Q.—You think it could be platted in the office as well as anywhere else?

A.—Yes, sir; it is like dividing up a paper; and you could give courses and distances; which you can do without going on to the land. You can do it exactly, and show every subdivision there is in the tract.

Q.—Well, do you think that would be a legal survey?

A.—I think it was legal.

Q.—That course was pursued here in the location of all these lands?

A.—This is done in the United States surveys. The land is divided into large tracts, and subdivided in the office.

Q.—And you think it was legal?

A.—Well, perhaps it was not strictly legal; but that is the way it was done.

Mr. Hammitt—Are you familiar with the districts in Contra Costa County? What reclamation has been made there?

A.—I can't say that I am. I know the lands there generally; I know the lands from Pacheco down to the bay, then above and below Antioch, pretty well. I don't know the numbers of the districts. There is none of these old districts having Controller's warrants outstanding; not one.

Q.—It appears the other way; that they have paid in, and have not had the funds returned. Do you know anything about that?

A.—No, sir. The Controller, I believe, apportioned the moneys.

Mr. Parker—Have you ever had occasion to know, personally, what lands were listed to the State which were not swamp and overflowed lands?

A.—I don't think I know of any lands, personally, that were not so which were listed to the State as such. I have heard a great deal about Sierra Valley; I never was there.

Q.—Have you ever come in contact with any County Surveyors, of whom you had suspicions that they were doing a little forgery in that manner?

A.—Well, I don't know; I don't think I have. I would hardly want to state a suspicion, and that is the only ground I had for believing anything of the kind.

TESTIMONY OF J. R. HARDENBERGH.

J. R. HARDENBERGH called, sworn, and examined:

Mr. Ferguson—The object of this committee, Mr. Hardenbergh, is to endeavor to find out whether, or to make some investigation into certain alleged frauds in the listing of swamp lands in this State, and certain alleged frauds regarding the proving up of the reclamation, etc., of said lands, and misappropriation of funds, etc. Now, if you can give us any information, we will be pleased; and if you will do it without our asking questions we would like to have you do so.

Answer—I will tell you what I know. Most of it is second-handed, and therefore would not be legal evidence. I know very little about it myself. The most of the swamp land had been listed prior to my assuming the office of United States Surveyor General. I have tried some cases under the Conness Act of eighteen hundred and sixty-six, and they have tried to bribe me several times.

Question—I would suggest here that you state what you know of your own knowledge.

A.—Most all of the land had been listed prior to my assuming the duties of that office. There has been a bitter contest going on while I was in office.

Q.—This Sierra Valley land case came up in your term, didn't it?

A.—Yes, sir, I tried both of those cases—the county line of Plumas, and the land line in Sierra. In that case an examination was made on the land. I gave the notices in May, eighteen hundred and seventy-one; made the examination, and went to Randolph in the Fall of eighteen hundred and seventy-one, and made another examination. The disputes about that land had just been settled by the Secretary of the Interior, and the State's claim had been rejected, and the settlers had been allowed to enter.

Q.—Does that finally settle that matter?

A.—Yes, sir. They brought charges against me in that matter, and tried to implicate—that I was bought by the settlers.

Q.—You were stating something about their trying to buy you?

A.—Yes, sir. Shortly after I assumed the office I published the statement of it. Mr. Mahoney applied to me and said that Mr. Chapman, who was a large land owner—said that Mr. Chapman was very anxious to have that matter settled, and said Chapman told him that if I would decide it in his favor he said he would give me one fifth, which would be worth one hundred thousand dollars; which I refused, of course. Then at another time Mr. Campbell had taken up some land, and the settlers sent me a petition saying that the land was not swamp land. While I was investigating the matter and looking into it, I went into Chapman's room one day and he laid a roll of twenties on the table; I asked what that meant, and he said, "You had a good deal of trouble in that Campbell matter." I said, "You are mistaken in the man entirely; you can send that back to Mr. Campbell, and tell him he cannot bribe me." Then Carr tried to bribe me to appoint a surveyor to survey some land near where the Modoc war was.

Q.—What Carr was that?

A.—Jesse D. He went to my chief clerk. He first applied to me to appoint a surveyor; I didn't know but what I would appoint him at first. Then he came in again and said that he wanted him appointed so that he might make the survey right away. I heard the man was surveying in behalf of the State, and told him I could not do it. A short time after that he returned and spoke to my chief clerk, Mr. Robinson, and told him there were five shares of that thirty or forty acres for him. My chief clerk told me of it. I said, "You didn't tell me at the time there was any trouble, Mr. Robinson." I told him he could tell Carr that I would not get Applegate appointed.

Q.—Do you know of any lands that they are after at this time?

A.—No. Most all of the swamp lands have been segregated. About three weeks ago there was a notice of land near the Town of Colusa—twenty thousand or thirty thousand acres of swamp land—notice given to the Surveyor General of the State. This land in the northern part of the State—I can't recall the names of the parties interested in that, but I will give you a list of their names. There is some in Lassen County, near Susanville; there is a small tract near Stockton, held by Judge Bradford; there is also another near Stockton.

Q.—That is in Fresno County, isn't it?

A.—Fresno or Kern; it is on the San Joaquin River. Then there was an application made to me by Mr. Earle, for the purchase of a large tract of land in Inyo. The law says he shall designate the sections; but he sent back word that the sections were not designated. I think that is all the swamp land that is now in contest.

Mr. Parker—Did Mr. Earle make application to you for the appointment of a Deputy Surveyor?

A.—He did, sir; but I declined to appoint him.

Q.—Can you tell the committee what this man's name was?

A.—It has escaped my memory. I have got several letters in my possession from Mr. Earle, with regard to the matter, and they will show his name. He was indignant that I did not appoint the man.

Mr. Ferguson—There was a presumption that you knew of the existence of a certain book wherein evidence could be obtained showing that bribery had been perpetrated in the State Land Office and other offices.

A.—I don't know of any bribery in the State Land Office myself; all the information I got about that was from a man by the name of Allee, who was the private clerk of Chapman. He told me Chapman had on his books an account entitled "Bribery Fund." That fund was used, he said, in Washington. I don't know of any of it being used in this State; if there was, I don't know it. I know a good deal about public lands, more so than I do about State swamp lands. The department instructed me to be very particular in the appointment of my surveyors, because when the United States Surveyor signed the plat there was no redress beyond that. That made me very careful in my selection of surveyors. I can give you the names of witnesses who can testify concerning the manipulation of Land Offices in the State. I have a book here; if you will allow me, I will state some facts in regard to those offices. On the twenty-eighth day of September, eighteen hundred and fifty-eight, the Conness Act was passed, and in eighteen hundred and sixty that Act was extended over this State—the twelfth day of May, eighteen hundred and sixty. The State of California, if my memory serves me right, on the thirteenth day of May, eighteen hundred and sixty-one, appointed what was called the Swamp Land Commission, to make segregations of all the swamp lands in the State, which they did do. Then the bill which was passed by Congress in eighteen hundred and sixty-six, made a proviso, which I will read to you. [Reads, commencing, "On the twenty-third day of July, eighteen hundred and sixty-six," etc.] After that Act, it was made the duty of the Surveyor General in this State to make segregations, make maps, etc., and the Governor was to send them to the Surveyor General of the United States, and he transmitted them to Washington. All surveys of lands as swamp lands under that Act, became absolute. There was an investigation of a case which decided this point before my predecessor, which lasted for three months. I examined the Act and the case, and found that the land had been segregated in eighteen hundred and sixty-eight, the maps had been filed and sent to Washington, and the land was ceded to the State. I gave an opinion, and it was objected to by the railroad company, and it was sent to Washington. There were about eight or ten additions afterwards made to this claim, and it was all made into one map—about two hundred and eight thousand acres. And those maps and papers were mislaid in Washington, and laid there for years in the box in which they had been sent; but they were unearthed at last. All that land has now been segregated under that Act.

In the case of any lands surveyed after eighteen hundred and sixty-six, and returned as swamp land, upon information that it is not swamp land being given to the Surveyor General of the United States, he is to hold an investigation and determine the character of the land. That is the reason all these lands here are being reinvestigated. There has been one question which the department considered—whether land that could grow a crop of grass was swamp land—whether grass could be considered as coming under the head of cultivated crops. They decided that it was not to be considered swamp land.

Mr. Parker—Do you consider it a proper question—whether under the present statute the speculators can go in and absolutely steal the land from the settlers?

A.—There are a few men in this State that own most all the land in the State. Chapman has been the catspaw which has drawn the chestnuts out of the fire. Chapman came to this country from Minnesota, and brought with him about eight hundred dollars, in eighteen hundred and fifty-six, and also brought some Sioux scrip with him. The treaty was that each of the Sioux should have one hundred and fifty acres, I think, and that the boys, unmarried, should have eighty acres, and the girls should have eighty acres; and they tried to get it so that nobody should have the power to enter the land except the Sioux themselves; but Chapman, through power of attorney, located them in Nevada, near Carson, but they got after him there, and had it rejected at Washington. He came here and then tried to get Agricultural scrip, which he was to pay for as he drew it out. He had some Chipewey scrip and Sioux scrip. It could be proved that he forged any quantities of that; it can be proved by parties here. Now, another thing Chapman did: he went and got the Register of the Land Office, at Stockton, to get leave of absence to go to the States, and while he was gone—you can prove that on the map of the San Joaquin Valley lands—that he put "W. S. C." in pencil on all of them. He got a substitute appointed to the place of the Register when he went home; so when a settler came he would say, "Mr. Chapman has filed on that;" and Chapman would turn round and make this man pay three, four, five, and perhaps ten dollars an acre for it. He used the United States Land Office as his office.

Mr. Kercheval—He run the United States Land Office?

A.—You can bring a man here that was told that Chapman did that. One man came to the Stockton Land Office, a settler, and wanted to enter some land. He said there was a stream of water on it which made it particularly valuable, and said he would go out and get some greenbacks; and while he was gone Chapman, who was present, said: "I will take that land," and he laid the money on the table. When the man came back the acting Register said: "Since you have been gone Mr. Chapman has entered that land and paid for it."

Mr. Lindsey—There has been a change in the Land Office at Stockton since?

A.—Yes, sir; it was not the present Register.

Mr. Ferguson—Here is the statement of that man Allee. He turned recreant to Chapman; Chapman didn't pay him.

A.—Talking of Jesse Carr; he swore that the grant of a ranch was a fraudulent grant. He made a bargain with Hermann, the lawyer, to give him two leagues for getting him a title to it; then he set out that it was a fraudulent claim, and refused to give him any. Here is his affidavit as I got it from the records.

Mr. Lindsey—Do you understand, General, that the swamp land within the surveyed townships in this State has nearly all been transferred from the General Government to the State?

A.—Most all listed, sir. There is some land in Inyo County, I think, that is not listed, and perhaps a bit of swamp land in San Diego County; but the great body of it has been taken up. There is some around the lakes in the mountains. There is one lake back of Long Valley, or the valley above it, that has not been surveyed yet.

Mr. Parker—We understand that there are cases concerning land in Inyo, independent of the applications which have been made, which are not proved.

A.—All I know about that is the applications of Earle through Mr. Gardner.

Q.—Can you give us the names of the parties buying in these, except Mr. Earle?

A.—No, only Earle, he was the only one that gave me notice. He called upon me. He wanted me to name a surveyor. I could not go down and make the survey myself, and I sent Mr. Mitchell to make the proper segregation—to make the survey. I think it was Mitchell, the man I sent there; I can tell by looking at the books.

Q.—Do you know whether he made the surveys or not?

A.—I think he did. I don't know whether the present Surveyor General has proof of that or not.

Q.—Were subsequent applications made by this man Mitchell, to the original application on file here?

A.—I think probable; yes, sir. I think there was some surveyed before; I think that was thirteen thousand or fourteen thousand acres; my memory is very defective, but that I can tell from the books. I didn't appoint Earle's surveyor, because I knew he had an interest in it.

Q.—We want to get at the name of the party he wanted for surveyor. Do you think you would know it if you heard it?

A.—I think not. Here is some land he wanted me to survey in Siskiyou County.

Q.—If these applications are proved, what proceedings would next be had in his getting the land?

A.—He files his application here with the Surveyor General, who is then to make an examination into the facts. He holds that examination and gives his opinion, and sends it to Washington for the approbation and disposition of the department; then it is sent to the Secretary of the Interior, and his action is final.

Q.—How does the Surveyor General conduct the examination?

A.—He goes on the ground and surveys the land; he serves a printed notice on every settler that has entered up to that time—everybody that is on the land—and goes into the examination of it, and approves it, every forty, or disapproves it.

Q.—Is there any possibility of that proceeding being evaded by them? Can't they get the surveyor to report as they want him to?

A.—I don't see how they can, under his oath. As for Gardner, I think he was always on the square. I know in a great many instances he would not give the notices, because he thought the land was not swamp land. A great many of them have failed to give the notices; but where it is segregated by the United States that ends the contest.

Q.—Then the jury is under the appointment of deputy surveyors?

A.—Yes, sir. Heretofore Chapman had been in the habit of appoint-

ing all the surveyors, and before they would file their map Chapman would know all about it. The settlers knew all about that.

Q.—Then what is your opinion as to the result in case you had made this appointment for Mr. Earle?

A.—It would have ousted the settlers, and they would have had no redress. What could they do? The Commissioner told me there was no redress, after the report of the surveyor was approved in Washington; and told me to be very careful in making appointments of surveyors, notwithstanding I was always very careful.

Mr. Kercheval—What do you say would have been the result supposing you had appointed the man to make the examination?

A.—He would, I think, have made the examination in Earle's interest. I had the right to appoint him, but I would not do it.

Q.—Suppose afterwards it should be proven that the examination was fraudulent, wouldn't it have been void?

A.—No, sir; not under this ruling of the department. I once went up to Susanville to examine the Mountain Meadows, and while there several gentlemen came to me and said that that land which the surveyor had surveyed as swamp land was not such, and the plats had not been sent to the Land Office, but had been sent to Washington. Just at that time Judge Belcher, afterwards of the Supreme Court, was delivering an opinion on a swamp land case in favor of the settlers. I went down to the land by way of Indian Valley, and rode all over the land. At Taylorville there was a merchant who dropped me a letter about this land matter. I went to see the merchant, and he said the land was not swamp land, and said: "You can see for yourself." At Indian Valley the mountains are very low, and very little snow falls there. There were one hundred or one hundred and fifty acres of the land, and I was told it was owned by three or four men, and that the settlers did not think it was swamp land, but it was claimed to be so under the survey, and their houses had been torn down. I was satisfied, and told them so, that it was not swamp land; and I wrote to the department at Washington, dating my letter there at Taylorville, and told them that the deputy had been tampered with, and that the land was not swamp land. I went to Sierra Valley, and stayed a month; and on my return I met Mr. Brown, and asked him about it. He gave me this affidavit. [Reads.] So you see from that that after the United States Surveyor General has accepted a plat it cannot be appealed from—there is no redress for the settlers. That is the only fraud I know of—the only case where a surveyor has made an improper return. Mr. Minto made some surveys there, and his return was not made when I was kicked out of the office. He has generally made very accurate surveys.

Q.—Can you tell when he was there?

A.—I cannot. I can tell by examining the books. Some of Earle's land has been surveyed and settled for some time.

Q.—Do you know a surveyor by the name of George D. Colman? He made some surveys out there.

A.—I don't think he ever made any surveys for me. I do not remember the name. The law compels me to appoint all the surveyors who are appointed, and I am sure Colman was never appointed by me.

Q.—I think he surveyed two townships, fourteen and twenty-three, or twenty-four, in eighteen hundred and seventy-three.

A.—That cannot be. He never was connected with the office. The only men who went there were Minto and a man by the name of J. C. Dunham; those two men are the only surveyors who went there from

my office. There was a Captain, an officer in the army, who surveyed some land in that vicinity, for private parties. Colman never made any surveys for me. I cannot be mistaken about that. If he made any surveys there it must have been for private parties.

Mr. Parker—Can a district land officer ever act in a judicial capacity in the case of an examination of land?

A.—No; he would have nothing of that kind to do. When the Surveyor General wrote to him directing him to give notices, he might not give a true list.

Q.—Do you think that a man who was acting as Register when an application is filed would make oath that there are no settlers on this land at all?

A.—Not if there are settlers on it; of course not. A land officer cannot decide a case and have an interest in it.

Q.—Does a District Receiver have any functions in conjunction with the Register?

A.—The Register and Receiver both have to examine all land matters of the United States which come up in their districts.

Q.—Do you think, General, that the United States or State Government are being rightfully served by an officer who, while he acts in that capacity, speculates in land himself. Do you think that is exactly the thing?

A.—No, sir; I do not. I made up my mind when I entered that office that I would not buy any land except a homestead while I was Surveyor General; and I never did.

Q.—There is no law or anything else to prevent a Surveyor General from acquiring land while he is in office?

A.—No, sir.

Q.—Can the Register order surveys to be made without applying to the Surveyor General?

A.—No, sir. All the difficulty in this swamp land matter has originated from taking the swamp lands up in the mountains. Most all that down in the valleys had been disposed of long ago. The State has got all she is entitled to, under the Conness Act, and perhaps a little more.

Q.—Can you put us on the road to finding this book you referred to—the one containing this particular account?

A.—That is in the Land Office at Stockton. They have probably used India rubber and rubbed out the penciling before this time.

Mr. Ferguson—He means this book of Chapman's; I suppose it is his ledger.

A.—That is his private register.

Q.—Can we get it in any way, do you think?

A.—I don't know; I suppose there is a legal way to get possession of anything of that kind. You can prove the fact by a witness.

Q.—Will you give us the name of a witness who will swear to that matter?

A.—Yes, sir. Daniel Allee.

Q.—What is his address?

A.—San Francisco.

Q.—I suppose a great many men have been engaged in trying to get these lands into their hands?

A.—No; the great grabbing of land has been done by Chapman and a few others. It has not been done so much in the United States Land Office as in the State Land Office.

Q.—I understand that Chapman acted as the agent of other parties as

well as for himself. Can you give us the names of any of the parties he acted for?

A.—I know he sold large bodies of land in this State to other parties. Friedlander was one, and I could name others in San Francisco. I have got a list down in San Francisco of the men holding large tracts of land throughout the State, Freidlander, Eggers, and others are among them. I know very little about swamp lands—only what came under my observation, as I have detailed.

Q.—Do you think a survey would be legal where the surveyor did not go upon the land, but made up his plat in the office?

A.—Not under the State law; I think it would not be legal under the State law.

Mr. Lindsey—Do they just sit down in the office and map it out, without going on the land at all?

A.—Yes, sir; but I know the State law does not contemplate that.

Q.—I have had an idea that their surveys could be invalidated because they have never gone on the ground?

A.—There cannot be any mistake about that. They cannot do that under the State law.

[At this point another witness, John Boggs, was introduced, whose testimony will be found following. At the conclusion of Mr. Boggs' evidence the examination of Mr. Hardenbergh was resumed.]

Mr. Kercheval—Mr. Hardenbergh, do you say it would be your opinion that the location of swamp land, without any survey being made upon the ground, would be illegal?

A.—Yes, sir; it would be illegal, in my opinion, under the State law. Under the law the lines ought to be recorded. The State did survey all these lands prior to eighteen hundred and sixty-six, and the maps are now on file.

Q.—You would think the Surveyor General of the State would not have any right to approve of a survey if the surveyors did not go on the field?

A.—I think not; no, sir. I would like to say to the committee that all the swamp lands in the southern part of the State which are returned as swamp lands are entirely different in character from the swamp lands on the Sacramento River. The lands there really are swamp and overflowed lands, and made so by the river overflowing its banks. The land is but little higher than the banks of the river, and the basin there in a wet season is filled up with water.

TESTIMONY OF JOHN BOGGS.

JOHN BOGGS, called, sworn, and examined:

The Witness—I know very little about swamp land; I know more about farming. I know very little about any other swamp land than that that I applied for, and the applications that I made I know were made correctly.

Mr. Ferguson—You know the charge has been made that you got hold of some swamp land?

Answer—[interrupting] I got a good deal of it. I was the first that

went after it. I reclaimed a good portion of it, and I still retain it myself. The swamp land that I had put in was about seventeen thousand acres. That was surveyed and returned as swamp land, by the Deputy United States Surveyor, prior to July, eighteen hundred and sixty-six. It was segregated by the State of California, too, and returned as swamp land; and I made application for it, and there was no contest, and the law didn't require the Surveyor General then to hold an investigation. I reclaimed it and took the necessary steps and got a patent for it—except this piece that I have got up in Shasta County; that was surveyed by the Deputy United States Surveyor, and returned as swamp land. He surveyed every parcel of it. There was no question about that. The General, after hearing the case, returned that with his approval. Then I had afterwards an application for about seven thousand acres that was claimed by the State as swamp and overflowed land. It was surveyed, by the United States Surveyor, in eighteen hundred and sixty-seven; but afterwards another survey took place, and it was returned as not swamp and overflowed land. I had made my application for it, and spoke to the General about it; but the settlers had taken it up, and I came to the conclusion, afterwards, that I would not push my claim, but would let the settlers go on and keep possession of it.

Mr. Lindsey—Do you know anything of your own knowledge about the swamp land indebtedness in your district of the State?

A.—Yes, sir; it is considerable. It is a large district, and the reclamation of it has been very expensive. It is mostly what they call tule land. It has been very expensive, and they have not finished the work yet, but there is no complaints. There are some complaints about District Number Five, in Sutter County; probably they are very well founded, too; but I don't know the nature and cause of them well enough to give evidence on that point.

Q.—Do you esteem this Swamp Land Fund Commission a profitable institution?

A.—It may be profitable to the Fund Commissioners, but it isn't to the swamp lands, so far as I have heard. I believe there have been only two or three districts that have been benefited by that Act. One is District Number Five. I think they will expend half a million dollars there—probably over that.

FOURTH NIGHT'S PROCEEDINGS.

THURSDAY, February 19th, 1874.

Present—Ferguson, Chairman, and Messrs. Hammitt, Parker, Kereheval, and Finney.

TESTIMONY OF B. F. MAULDIN.

B. F. MAULDIN, called, sworn, and examined:

Mr. Ferguson—Mr. Mauldin, the object of this investigation is to inquire into certain alleged frauds in the listing and locating of swamp lands in this State, and, also, in regard to alleged frauds in the reclama-

mation of lands reclaimed and drawing money from the State Treasury; and any information you can give us upon the matter we desire to have.

Mr. Kercheval—Mr. Mauldin, you have located considerable of these swamp lands, have you not?

Answer—Well, I have made application for them. Yes, sir; I will answer yes.

Question—In what part of the State, principally?

A.—I think I applied for eighty-four thousand acres in San Joaquin County; about twenty thousand acres in Yolo. I don't remember how much in this county, but several thousand, say three thousand or four thousand, anyway; seventeen thousand in Lassen.

Q.—In what years were these applications made?

A.—I think it was all in the year eighteen hundred and sixty-nine.

Q.—In what quantities did you apply for it; in small quantities or large quantities?

A.—Well, I suppose the committee is aware that a law had previously existed allowing a man only to take three hundred and twenty acres. When all the land that could be resided upon—all that families could camp or settle upon—was sold under that law of three hundred and twenty acres, then the deep tule—such as that lying in behind you there and others—that it was impossible for anybody to occupy in any other way, the law of eighteen hundred and sixty-eight allowed parties to take as much as they saw fit for the purpose of getting it into a body for the purpose of reclaiming it generally; and when I found a body of land unoccupied and unclaimed, that was lying in behind the ranches and homes of others, that could not be made use of and could not be sold in that way, the law made no qualification as to the amount, and I generally took it all clean up, so that I could get a reclamation company to take hold of it and get it fit for use. On your island I think there was about seven thousand acres there vacant, more or less; I disremember the amount—it has been some time ago; but I took all that I found.

Q.—How did you ascertain that there were no claimants to it, or no residents on the land?

A.—The law directed you to the County Surveyor, and by reference to his map all the land that was—you could make the application direct to the County Surveyor. He then took his map, or plat, and his books, and if there was no other claimant upon the land to conflict with your application he would return a report that such was the case to the Surveyor General. The Surveyor General examined it, and if he found that was correct he then approved; and the twenty per cent had to be paid within fifty days.

Q.—Approved; what do you mean?

A.—He approved the return of the County Surveyor to the land.

Q.—The Surveyor?

A.—The County Surveyor; yes, sir.

Q.—What mode did you pursue in getting this survey made?

A.—The United States sent her surveyor. Where the land had been surveyed by the authority of the United States they made a plat of it, and then they designated on the plat the segregation lines; and the County Surveyor, under the law, has nothing to do more than to take the plat of the United States Deputy Surveyor and lay it down and simply take a copy from it; because if he done otherwise he would conflict with the United States survey. The application has to conform to the

United States Surveyor's description of the land—the lines of the legal subdivisions.

Q.—Do you know that the United States Surveyor ever surveyed those lands?

A.—There was a large part —

Q.—I mean those lands that you located?

A.—Well, the lands—if you will allow me to make a statement of the matter, I will tell you how I understood it, and how the State authorities then understood it. When the law of eighteen hundred and fifty, granting those lands to the State, was made, the law was incomplete in itself, inasmuch as it did not provide an appropriation for money and means to survey and segregate the lands. Missouri went to work and sent out her own surveyors, and surveyed the land—what was known as swamp and overflowed lands. The question then arose, whether she had a right to do that until such time as Congress should make an appropriation, and carry out the law by making a survey of the lands, and surveyed it over. That question came up before the Court, and the Court decided that the State need not wait the tardy action of the Government, but could go ahead and improve her lands. California, after that decision was made, sent out Von Schmidt, Jack Hays, Colonel Beaumont, and others here, and they went and made those survey lines, and their surveys were accepted by the Government; and it was in accordance with their surveys that these lands were submitted to sale under this law of eighteen hundred and sixty-eight.

Q.—Well, don't you know that they never surveyed these lands—never went on them?

A.—I do not know that, sir.

Q.—That no United States Surveyor was ever on them, or ever ran a line?

A.—I don't understand that the United States authorities done it, but that the State authorities ran their lines. The Act of eighteen hundred and fifty was not complete in itself, inasmuch as it did not make an appropriation for to survey and to list them lands. The consequence was, it devolved upon the State to do that; and under an Act of this State these lands were surveyed, and all that where anybody could occupy or make a home, was taken up under the three hundred and twenty-acre Act. But deep tules, where ships could float, they could not be sold, and the Legislature of eighteen hundred and sixty-eight thought necessary to change that law, and put that land into the market, and allowed any one to take any amount that they wished of it, by making an application in due form for the land, by its subdivisions. I don't know that they contemplated a general taking up of the lands; I don't know anything about that; but I believe it was better to get the lands into some shape. We went upon one island down there near you; the tide went over it nearly every day. There was only one settler on the island. Old man Russell had two hundred and fourteen acres of it that had been entered, but was abandoned.

Q.—That was Twitchell Island?

A.—Yes, sir. I got the whole of that, burned off the tules, and sowed it in wheat, and drove a band of sheep back and forward on it. On that island we cut and sold seventy bushels of wheat to the acre.

Q.—Whom did you apply to for this survey? Who was the surveyor?

A.—A man by the name of Doherty; he was the County Surveyor here.

Q.—Is he living here now?

A.—I think he lives in Oakland. He had nothing more to do under the law than to take the plat that was filed in the office of the Surveyor General, and make a copy of that.

Q.—Did he go upon the ground to make a survey of that?

A.—The law didn't require him to do that; the law didn't require that.

Q.—Well, did he go upon the land?

A.—He did not.

Q.—Then how could Mr. Doherty know that there was no resident or claimant upon this land?

A.—Because there was no application upon his books for it; and the law said that unless the application was made within a certain time it would be open to anybody. If there was any applicant for it, Mr. Doherty would refuse another applicant.

Q.—Whom did you apply to in San Joaquin County?

A.—I applied to the County Surveyor; Mr. Wallace, I think it was.

Q.—Wallace?

A.—Yes, sir. In San Joaquin, however, I found some parties that were living at the land, who bought my claim, and gave me a bonus for it; and other parties took it and put it into reclamation.

Q.—Did Wallace go upon the ground to make the survey?

A.—I am not aware, sir. I paid him some two hundred and fifty dollars at one time, and other parties paid him something. In Yolo, I made the application to Mr. Underwood, or Underhill.

Q.—Underhill, I think.

A.—Underhill; yes, sir. I think there was but one way of making the return. I made application for seventeen thousand acres in Honey Lake. That had been surveyed by the authorities of the United States, and had been listed over to the State, and had laid there a year or two vacant. No one appeared to want it at all. I applied to Mr. John C. Partridge, who was the County Surveyor, and asked Will. Green and General Houghton, I think, how much I ought to pay him. They told me that it was worth about eighteen dollars. I waited some time, and didn't hear from Partridge. At last he wrote me a letter, saying that it would be necessary for him to go upon the ground and make an estimate, and that he could not do it unless I would furnish him two hundred dollars. I sent him two hundred dollars. He then made a return, and made a balk in the return. When it came, I found that he hadn't followed the United States lines, and the result was that there was a conflict of the lines. The Surveyor General would not approve the land, and I then asked Mr. Partridge to amend it, and he refused to do it, without I would pay him three hundred dollars more, and I refused to do that, believing that it was an imposition, and the consequence was, I have never been able to get the land approved. That was in eighteen hundred and sixty-nine. It lies in the Surveyor General's office, because the return of the County Surveyor is in conflict with the lines of the United States survey plats of the segregation line. The land is mine; it was regularly listed to the State under the law, and my application was regularly made. I had the money to pay for it, but the officers failed to make me the proper returns, and I have not pressed the matter very closely lately, and I have not taken title to the land.

Q.—I will go back a little now. Did Mr. Doherty make out this plat of the lands himself, and bring it before the Surveyor General for approval? In Sacramento County, I mean.

A.—Mr. Doherty made the papers out, and handed them to the General for approval.

Q.—But he didn't go on the ground?

A.—No, sir; he didn't go on the ground; I know that under the law he was not required to.

Q.—Did the County Surveyor of San Joaquin County go on the ground, or were his reports made out in his office?

A.—They were made in the office of the County Surveyor of San Joaquin County.

Q.—And properly returned here?

A.—And properly returned here; yes, sir. He didn't make them out for me, because I did not have the claim.

Q.—Who didn't?

A.—Wallace.

Q.—How was it with that you bought in Yolo County here, when Underhill made the returns? Did he plat the land here? Now, there has been a charge made that it was made here in this office; that is the reason why I am asking these questions.

A.—Well, sir, I will tell you that it was not done in the office. General Bost was the Surveyor General at the time. I made the application to Underhill, and he charged me two hundred and fifty dollars for it. I was satisfied, in my own mind, that he wanted a great deal more than it was worth, because he did not have any going out to survey. All he had to do in the world was to take the plat, as returned to the United States Surveyor General's office, in San Francisco, which he had a copy of, and lay that down, and just on tissue paper take a copy of it, making it conform to the segregation lines, estimate the number of acres in any fractional or intricate piece, and give the subdivisions of the forty acres, and make that paper out and return it to the Surveyor General.

Q.—Do you consider that complies with the swamp land Act?

A.—It did, completely, at the time; that was just exactly what the law contemplated. I consulted with General Houghton a number of times, and he didn't require the County Surveyor to go upon the land.

Q.—The reason why I asked this question was this: when I bought my land and when everyone else that I know of bought their land, we were subjected to the expense of bringing the County Surveyor there on the land, and affidavits had to be made as to the character of the lands.

A.—That was under the early law.

Q.—There is no difference between the two laws in regard to the survey, but the affidavit part, as to the character of the land, is lopped off.

A.—Well, the County Surveyor—his duty is, as I understand it—all we had to do was to go to the County Surveyor and ascertain the legal subdivisions of the land, and whether it was then vacant or not. If it had been called for, and had been returned by the Surveyor General, and the fifty days expired for payment, it was again vacant; but if it had been approved by the Surveyor General, and lay in the office, you could not get a return for it, and if you did, the Surveyor General would not receive it. Hence, there was no conflict allowed to arise in that way, unless occasionally there might be a case where in some way two applications came in for the same piece of land; then the first applicant got it, if he was correct in his proceedings.

Q.—Did you apply for any land in Solano County?

A.—I did; for about eight thousand acres; and I got them.

Q.—That was surveyed in the same manner?

A.—That was; yes, sir. I applied to Mr. Fitch for that.

Q.—The County Surveyor's name was Fitch?

A.—Fitch; yes, sir. I was satisfied that there was considerable vacant land in Solano County. I left San Francisco and went to Suisun. I stayed all night at Fairfield, and got up the next morning early and went into the County Surveyor's office as soon as he got there, and told him I wanted to see his county map for the purpose of looking over it to find out what lands were vacant. He told me that he had no map. I told him that he certainly must have. He said no, he had none. He utterly refused to let me see his map; it was lying in a drawer under one of his desks, as I learned afterwards. Then I told him that I would apply to the State Surveyor General and see that he had a map. I came right up to Sacramento and reported it to General Bost, and he told me I had been humbugged. I went back, and found that Fitch, in the meantime, had got Judge Hinckley, a lawyer in Fairfield, and had made application that day for all that land on Mare Island that runs from the neck of Mare Island up the bay between Napa and Solano Counties—about five or six thousand acres of it. Fitch made it with the understanding that Hinckley was to have a share in it. They then sold it to Chapman, for five thousand dollars, as I understood (I did not see the money paid), and Chapman paid for the land and got it. And I was satisfied that Fitch had done me injustice; but it was a mere question of veracity between him and I, and he rather had the advantage of me in his office, and I let it go. I afterwards found his map, and went over it and found—I don't know how much. There was one piece of three thousand three hundred acres, and some others—I think, in all, between seven and eight thousand acres.

Q.—Did you apply solely for this, or was somebody else interested with you?

A.—I made the applications entirely upon my own idea; but I hunted up capitalists to try to get reclamation started to try to get the land into some shape that it might produce something.

Q.—Who was associated with you?

A.—Well, the man who I placed in immediate possession of the lands was George D. Roberts. He associated others with him that I had nothing to do with. I sold different tracts to other parties. I sold one tract of thirty-three hundred acres to J. W. Tucker & Co., and I sold considerable to Dr. Ryer; and they have improved it. I think it is all attempted to be reclaimed.

Q.—Did you locate the land on Schoolcraft Island that Ryer owned?

A.—I don't know; I sold him a lot of it. There was one lot that I sold, you know, to a woman in there—Mrs. Parker. I sold her two thousand acres—twelve hundred and fourteen acres it was, I believe.

Q.—Was Bost interested in this land business?

A.—With me?

Q.—With any one?

A.—Never to my knowledge, sir. I never consulted with him about it. I never knew of his having the interest of a picayune in it in any way. Bost paid very little attention to the office, apparently. He gave it to Mr. Beaumont and Twitchell. They were the main men in the office. He was there very little himself. He just came and went. Bost was not an avaricious man. He was not a speculative man. He appeared to take very little interest in the future.

Mr. Parker—Did you ever secure the appointment or procure the ap-

pointment of any deputy United States Surveyors in connection with your land operations?

A.—Never, sir; never had anything to do with them whatever, in any way; never consulted one, or asked one any question in regard to it, in any manner, nor any one excepting the County Surveyors. I paid them liberally, because there ain't much for a County Surveyor to do. I located some in San Mateo County; I think it is down at Redwood City. There was a Mr. —, I forget his name, who had his office in San Francisco, and I went to him, and he wanted to charge me a big price. I told him I understood the law, and wouldn't pay him only so much. He said he had his own way of working. I told him I would give him just double what the law required, and no more. He insisted on having still more. Finally, he agreed to take the job for so much. He first declared that there was no vacant land there. I told him there was; and he got his book and found that I was right. He said he did not know it before. I told him it was not necessary for him to know it. He finally made out the papers, and I received the land.

Q.—You never had any business transactions with the United States Surveyor General in these matters, at all, then?

A.—Swamp land matters?

Q.—Yes, sir.

A.—No, sir.

Q.—Have you any knowledge of United States surveyors segregating lands that were occupied, or declaring them to be swamp and overflowed lands?

A.—No, sir; I know nothing about that. I would see their plats in the office, and when there were no lines on the plats I would ask the County Surveyor how that stood. In some instances he would say, "That land has been called for by some parties;" and they would mark it on the plats; and the balance, where there had been no application for the land, where it was for sale under the law, when I applied for it, he would just return it.

Q.—Would you invariably separate this property that was located on and claimed by others?

A.—If there had been other applicants for the land——

Q.—I mean residents—occupants?

A.—I don't know. These lands that I took up were deep tules; no one could live upon them; just like that back of Mr. Kercheval; no settler would live on them. In the wet seasons the water would be so high that you could run a ship over the land; it was only that land that nobody else wanted that I took.

Mr. Kercheval—You spoke of knowing by the segregation lines not being marked on the plat that the land was swamp land.

A.—Yes, sir.

Q.—Why? Was there no segregation lines there on that portion of it?

A.—Down in your island?

Q.—No. You had been told by the surveyor that there was no swamp land there in San Mateo County, but you knew it was swamp land because of the smoothness of the plat, there being no segregation lines marked on the plat?

A.—That particular piece of land was in that marsh down there, and it was all marked down as swamp and overflowed land. No survey had been made of it, and the legal subdivisions had not been marked upon the plat, and it had no figures on it to show that it had been called for.

It was just where the vessels come up the mouth of the creek. A certain man's line came up to this creek, and there was quite a body of land in there; and I examined the plats and found that there was no applicant for that, and then I applied to the County Surveyor for it. That was the first information that he had that it was vacant. If I had asked him about it, he would, probably, have told me there was no land in there; and after he had examined it, he would have done as Fitch did.

Q.—Now, here; did the County Surveyor go upon that land and survey it for you?

A.—No, sir; he made the plat right there in the office.

Q.—There having been no lines upon the map, no survey having been made by the United States whatever?

A.—The segregation lines were there.

Q.—You said you knew by the segregation lines not being marked there.

Mr. Ferguson—Have you ever had business relations with Payne, of Tulare County?

A.—I don't know that I know him at all.

Q.—Have you ever applied for any lands in Inyo County?

A.—School lands, not swamp lands. Of school lands I have taken about forty sections, I think, in Inyo.

Q.—When?

A.—I think on the twenty-fourth of May, eighteen hundred and sixty-nine.

Q.—Do you own them now?

A.—No, sir; I sold them to residents of the county, and to parties that wanted them; I sold them to farmers, and persons that wanted them.

Q.—Were you ever in that county?

A.—No, sir.

Q.—Do you know anything about the character of the lands there?

A.—Well, I always know the character of every piece of land that I apply for.

Q.—Then you have no land that you took under school sections—swamp land?

A.—Of course not; it could not be. I located for parties who wanted land. If a man wants one hundred and sixty acres of land, and he don't know where to get it, if he comes to me I will put him on the road to get it. The State has the lands for sale; and if he gives me fifty dollars I will show him where a piece of land is vacant, and where he can buy it under the laws of the State. That is my charge; I never have charged only in one instance more than that, and that was a matter of a different kind. You, and each one of you, gentlemen, are entitled to three hundred and twenty acres of school land. Now, it is not everybody who has time to inform themselves how to obtain that land. They apply to me, and I select them a piece of land; three hundred and twenty acres is what they are entitled to, if they want it; if not, one hundred and sixty. If two brothers, or two friends come, they can have a whole section. I inform them where they can get it. I act as a kind of salesman for the State, and help carry out the law, and put the money into the Treasury; and the people who want the land get it. If it were not for that, sheep men and cattle men and land speculators would get all the land. There is not a spot now in California where a settler could go, but somebody would come and tell him he had miscued, the untaken land was a little further on. Under the possessory Act here, a man

goes to work and builds a fence around ten thousand acres, more or less, and he holds that under the law, till some man comes in and claims it. If there is a school title in there, a man can come in there and take it, but not otherwise.

Mr. Parker—Are you acquainted with one Earle, of Inyo County, a land speculator?

A.—I have had no connection with him that I know of. The name, Earle, is very familiar, but I don't know him. I have never had any business transactions with him.

Q.—There is no possibility of any of that school land of yours being swamp and overflowed land?

A.—Well, if you were an officer, and were sent out by the United States, your instructions would be to return to the department the character of each piece of land that you worked. You then give a description of the character of the land, whether it is first, second, or third rate. Now you have got to inform yourself what "rate" means; but when you have learned what first rate land is, and what second and third rate land are, you can see what the surveyor's idea was. If you were to ask me to locate you three hundred and twenty acres of school land, and would tell me what kind of land you wanted, rolling, valley, grain, or any other kind of land, I would just simply run down the list of sections that I know can be located, and read the field notes, and tell you what the sworn and experienced officer said about the character of the land. If it is swamp land he would draw a segregation line around it, and it could not be sold as school land. You have to get a certificate from the Register in the district, which declares that there is no claim adverse to that of the State to it.

Mr. Ferguson—When was it that you located those tide lands in San Mateo County?

A.—I think it was in eighteen hundred and sixty-nine. I turned and sold the land to J. W. Tucker & Co., or J. W. Tucker himself. Tucker already had some land there, and this was a piece very near him, and I sold the land to Tucker.

Mr. Finney—Was this land along the bay?

A.—I think it was just where the vessels come up in there, in below the warehouses there. No one had paid for it; it was a vacant piece.

Q.—Do you remember how much there was of it?

A.—No, I do not; but it was less than two hundred acres—a small tract. I have merely acted in this whole matter as a State salesman. If anybody supposes that I got a large amount of land, as a great many people has said, they are mistaken. Personally, I own very little land; I own all I want to own, but I do not own a great deal personally. I locate land for those who want to buy. There are hundreds of men in this State that have got homes through me, who could not have got homes otherwise. One man—his name was Michael Horner—came to me and said he wanted to get some land from the State. Said I, "Where do you want to settle?" "Well," he says, "anywhere where I can get to market." I told him of three hundred and twenty acres of land just east of Johnson's ranch, on Bear River. He paid me for it, came up here to the Surveyor General and applied for the land, and the Surveyor General issued him a certificate. He then got the County Surveyor to put him on the land. There were three springs of water on the place, and eighty acres of the land was ready for the plow. Last year he raised a very large stock of turkeys.

Mr. Ferguson—I think that will be all, Mr. Mauldin, that we wish to question you about.

TESTIMONY OF WARREN BRYANT.

WARREN BRYANT, called, sworn, and examined:

Mr. Ferguson—You are interested in that Baker Grant down there, Mr. Bryant, are you not?

Answer.—Yes, sir; myself and this gentleman, Mr. Carter here, purchased a half interest in it.

Question.—Well, what work was done upon that in the shape of reclamation?

A.—Well, I am not acquainted with the work that was done except from the evidence that the parties from whom we bought presented to us. That is here—the evidence of the Secretary.

Q.—How long have you been holding that land?

A.—Well, I think the first talk we had with these parties that assigned to the original locators was perhaps about six months ago—eight months ago, perhaps; and we made the purchase about three months ago.

Q.—Have you ever been over the land yourself?

A.—I have not myself, but Mr. Carter is familiar with the country there.

Q.—Have you any swamp lands in other places in the State, sir?

A.—Yes, sir; I have some in Contra Costa County.

Q.—Those I suppose were originally segregated as swamp lands?

A.—Yes, sir; they are all platted. All I have is under reclamation.

Mr. Hammitt—Do you know of any of those lands that have not been listed?

A.—I don't know of any. I think nearly all of them are listed, and a large portion of them, I think, patented.

Mr. Ferguson—You know then nothing in regard to the work that was done in the reclamation?

A.—Nothing further than what I get from the parties we bought from, and that you will find mainly contained in those documents there.

TESTIMONY OF T. O. CARTER.

T. O. CARTER, called, sworn, and examined:

Mr. Ferguson—Mr. Carter, what work was done on the reclamation of the Baker Grant, that you know of—this Montgomery Grant; the Canal Grant?

Answer.—Well, there is a ditch that has been dug there. I don't know

the extent of the canal; some two miles, I think, that the surveys give. I have not been the whole length of it.

Question.—Do you know what the size of the canal is?

A.—No, sir.

Q.—Do you know of any other work that has been done there?

A.—No, only from the evidence of the officers of the company.

Q.—Do you consider that that canal will fully reclaim that land?

A.—I suppose that was not done for the purpose of reclamation, but for a shipping canal. I think if you look over the Acts of the Legislature in regard to this as thoroughly as I did before I made any purchase, you will find that this patent was not issued under the idea that the land is thoroughly reclaimed; but it is as a compromise of the contract that was made years before with this Tulare Canal Company.

Q.—Well, the original contract required, of course, the digging of the canal; but the last required them to reclaim those lands.

A.—Well, the officers have certified, as you will see by the Act, how this work was done.

Q.—Wasn't the patent given for that land upon the understanding that it was a compromise?

A.—Yes, sir; that is as I understand it.

Q.—The Governor and Surveyor General made the compromise?

A.—No, an Act of the Legislature.

Q.—Mr. Houghton testified differently to that.

A.—It certainly had to be. This certainly was not given by the Governor and the Surveyor General. There had been two Acts.

Q.—Yes, sir, and a third Act. The third Act required the reclamation of the land.

A.—When the matter was brought up the officers sent their certificate that the land was reclaimed; and in consideration of the work that had been done, and of the relinquishment of the rights that this company held, the State did patent this tract to them. I had no further knowledge of the title of this land than I could find in the records in the different offices. I have been over the land several years ago, thinking that I might trade for it in connection with some others.

Q.—Where is this canal located?

A.—Near the head of Fresno Slough.

Q.—You have no idea of its dimensions?

A.—I think it is forty feet wide, four feet deep, and two miles long.

Q.—It is not used for anything now, is it?

A.—No, sir. The scheme was declared by the engineer to be impracticable.

Q.—Do you know who holds other portions of that land—the balance of that grant? It is all situated in a body there, is it not?

A.—Well, there are two separate pieces; the lake makes a division.

Q.—Some of it is in Kern, is it not?

A.—Yes, sir; I think it is in Kern, Tulare, and Fresno.

Q.—Well, what was done towards reclaiming that in Tulare, do you know?

A.—No, sir. As I say, this Act does not contemplate that this land should be reclaimed. The first Act did not require that the land should be reclaimed; it was only that a canal of certain dimensions should be run. The parties that hold the other part of this claim—there are some five or six men.

Mr. Hammitt—Do you know what was done with the land that was relinquished by this company to the State?

A.—Well, I suppose the land—when I was there some years ago it was similar to other swamp and overflowed land. Some of it was applied for as swamp and overflowed land, and I suppose that by this time most of it has been applied for.

Mr. Kercheval—How long was this canal?

A.—Well, I should judge it was two miles, I think, probably.

Q.—About what was the expense of the construction of such a canal?

A.—You can tell by the papers here. The exact figures are given here by the Secretary of that company—the papers that were handed in here. I believe it amounted to some thirty-two thousand dollars that they expended on the works there. One of those papers is a statement, sworn to by the Secretary of the company.

Q.—About forty feet wide, four feet deep, and two miles long. It would be pretty expensive work at sixteen thousand dollars a mile?

A.—Well, it wouldn't have cost so much after the work was fairly begun. The contract that they took was supposed to be a large job of work, and they made preparations on a very extensive and expensive scale, under the impression that it would be a navigable canal. But after having done a large amount of work, their own engineers, I believe, discovered that Tulare Lake would be lower than the outlet of the canal, and then they stopped work. Then they represented this, as I understand it, to the State; that after they had completed the contract it would be no benefit to the State. They could have gone on and completed the work, and then have held title to the whole land; but it was compromised after it was found out that the State would not be benefited by the completion of the work. I saw the reports in the paper here that this committee had found some defect in the title of the land, and came here to see what was in the reports.

Q.—How long was the canal to be if it had been fully completed?

A.—I should judge that the distance from Fresno Slough into Tulare Lake is some fourteen or fifteen miles. Some wet seasons the lake is right up near the slough, but in the dry seasons the water is very low, and it is a long way from it.

Q.—It cost, then, about sixteen thousand dollars per mile?

A.—Yes, sir; I should judge about that.

Q.—How much land did they receive on the compromise for what they had done?

A.—I think it is a little rising eighty-nine thousand acres.

Q.—How were they to pay for it—for this work—provided they had constructed the whole canal there?

A.—The company was to have all the odd sections along the line of the canal.

Q.—They would have been the owners of the entire tract?

A.—Yes, sir; that is the way I construe the Act of the Legislature.

Q.—How much land was there in the entire district?

A.—I think it was about two hundred thousand acres that was embraced in the first grant. I have never seen the maps of the first grant exactly, but it figures up something about two hundred thousand acres I believe.

The documents referred to in the testimony of Carter, viz: the contract between James G. Fair of the first part, and Delos Lake and James T. Boyd of the second part, for the construction of a canal from King's River Slough to King's River, and the report of James Thomas

Boyd, Secretary of the Visalia Canal and Transportation Company, were submitted to the committee; and copies of said documents were made by the Secretary of the committee, which copies are hereunto annexed, marked, respectively, "Exhibit A" and "Exhibit B."

A letter from — to a member of the committee was read before the committee and made a part of the evening's proceedings; and a copy of said letter is hereunto annexed, and marked "Exhibit C."

"EXHIBIT A."

[Copy.]

Memorandum of agreement made and entered into this twenty-third day of July, A. D. one thousand eight hundred and sixty-one, between James G. Fair, of the City of San Francisco, of the first part, and Delos Lake and James T. Boyd, of the same place, of the second part.

WHEREAS, The parties of the second part are desirous of building and constructing a canal from a point on King's River Slough to King's River, in Fresno and Tulare Counties, in the State of California, according to a certain profile prepared by J. E. Whicher, Esq., Civil Engineer.

Now, this agreement witnesseth that the said party of the first part, for and in consideration of the covenants and agreements hereinafter contained on the part of the parties of the second part to be kept and performed, hath undertaken and agreed, and doth hereby covenant, promise, and agree, to and with the said parties of the second part, that he will do and perform all the excavation, embankment, and construction, not to exceed eighteen miles in length, necessary to be done in order to build and construct a canal, of the dimensions hereinafter stated, upon the line indicated in such profile, or upon such variation from said line as the parties of the second part may direct and require, and deliver the same to the parties of the second part, completed and finished, on or before the first day of April, A. D. eighteen hundred and sixty-two, for the price or sum of four thousand eight hundred dollars per mile, for each running mile of such excavation, to be paid and advanced by the parties of the second part, as follows:

The sum of ten thousand dollars upon the execution and delivery of this agreement, the receipt whereof is hereby acknowledged; the sum of six thousand four hundred dollars upon the completion and acceptance of the first four miles of excavation; the sum of sixteen hundred dollars per mile for each mile of excavation after the completion and acceptance of the said first four miles, payable as each mile of excavation is completed and accepted, and the balance thereof, one half at the expiration of six months, and one half at the expiration of twelve months from the completion and acceptance of the whole work contemplated by this agreement, as above stated, but without interest, or, at the option of the parties of the second part, upon the completion and acceptance of the whole of said work, less one per cent per month deduction for cash.

Said canal to be constructed and built so that the same shall be forty feet wide at the top, twenty feet wide at the bottom, and be formed by an excavation of two and one half feet in depth, and an embankment, on each side, of two and one half feet in height, and to slope gradually

from the top of the embankment, at a point twenty feet from the center of the top of the canal, to a point ten feet from the center of the bottom thereof; in other words, two feet slope to one foot in depth.

The completion and acceptance of the whole or any portion of said work, as above provided, is to be ascertained by the certificate of a person to be appointed for that purpose, by the parties of the second part; and five days after sight of the certificate of such person, by the parties of the second part, that the whole or such portion of said work is done and completed to his satisfaction, the portion so certified to shall be deemed to be accepted within the meaning of these presents.

The party of the first part shall be at liberty to draw on Delos Lake and James T. Boyd, the parties of the second part, at five days sight, without grace, for the amount of each of the payments above provided for, as the same becomes due and payable, excepting the final payments *[such drafts to draw interest after maturity, at the rate of ten per cent per month] * such draft to be accompanied, in every instance, by the certificate of approval of the work done of the person above mentioned.

The party of the first part agrees to do, perform, and finish the work above mentioned, in a good, substantial, and workmanlike manner, and to commence and prosecute the same without delay.

All extra work which may be done by the party of the first part, not embraced within the excavations hereinabove agreed to be made, shall be charged to the parties of the second part, at the actual cost thereof to the party of the first part, to be ascertained and limited by the cost of hire and keeping of the men actually employed in such work, and the reasonable compensation for the use of the teams actually employed therein.

The parties hereto of the second part, in consideration of the premises, hereby undertake and agree to pay the said party of the first part for the said work at the rate per mile, and at the times and in the manner hereinabove mentioned and provided, and to accept and pay at maturity each and every of the drafts authorized to be drawn hereunder in accordance with the terms hereof.

The parties of the second part hereby further agree that upon the completion, acceptance, and delivery to them of the whole of the work hereinabove contracted for, they will make and deliver to the said party of the first part the two several promissory notes of the parties of the second part; one thereof for one half of the balance then remaining due to the party of the first part hereunder, payable six months after the date of such delivery, without interest; and the other for the remaining half of said balance, payable twelve months after the date of such delivery, without interest; each of said notes to be indorsed by John Center, C. B. Polhemus, Erwin Davis, and Horace P. Janes, or their successors, or the survivors of them; or at their option will pay the whole of such balance to him in cash, less a rebate of interest thereon, at the rate of one per cent per month.

The parties to this agreement hereby mutually agree that the work to be done hereunder shall be done under the direction of J. E. Whicher, Esq., Civil Engineer, or such other person or persons as the parties of the second part may from time to time appoint in his place and stead, and that as soon as the first four miles of excavation, and each separate mile of excavation thereafter, is finished and ready for inspection, the said party of the first part shall notify said Whicher thereof, if he shall at

* Interlined in the original.

the time be within a convenient distance; or in case of his absence, sickness, or inability to act, then such other person as may have been named to the party of the first part for that purpose by the said parties of the second part, or if no such person shall be named then the County Surveyor of the county in which said work may be situated. The person so notified shall proceed without delay to inspect the said work, and if satisfactory to him give his certificate to that effect to the party of the first part. In the event that said Whicher or other person to be named by the parties of the second part shall not accept the work so offered for inspection, the County Surveyor of the County of Fresno shall be notified by the party of the first part and requested to examine the said work and decide between the contractor and such engineer, and his certificate that the work has been done in accordance with the terms of this contract shall be a sufficient certificate to accompany the drafts hereinabove authorized.

And for the true and faithful performance of all and every of the covenants and agreements hereinabove mentioned on the part of the party of the first part, he, the said party of the first part, doth hereby bind himself, his heirs, executors, and administrators, unto the said parties of the second part, their heirs, executors, administrators, and assigns, in the full amount of all payments which may be made to him hereunder, and in the further and penal sum of five thousand dollars, as fixed and settled damages.

The parties of the second part hereby further agree to and with the said party of the first part, that if the parties of the second part shall elect to terminate this agreement they will pay the said party of the first part as liquidated and settled damages therefor, and in full satisfaction of this agreement on their part, as follows:

If so terminated before the work of excavation is actually commenced, that they will forfeit the amount advanced and paid to him at the date of this agreement.

If so terminated after such work has been commenced, and before the completion of the first four miles of excavation, that they will forfeit the said amount so advanced and paid, and will pay him in addition the full price of four thousand eight hundred dollars per mile for said four miles.

If so terminated after the completion of the first four miles, and before this agreement has been fully complied with, that they will pay him at the rate of forty-eight hundred dollars per mile for the excavation actually completed, and the sum of five thousand dollars in addition thereto.

The respective damages and penalties aforesaid to be due and payable, on demand, to the party in whose favor it shall accrue.

In witness whereof the said parties have hereunto, and to a duplicate hereof interchangeable, set their hands and seals the day and year first above written.

Sealed and delivered in presence of—

DELOS LAKE,	[SEAL.]
JAS. THOS. BOYD,	[SEAL.]
JAMES G. FAIR.	[SEAL.]

Canceled September 14, 1861.

JAS. THOS. BOYD,	[SEAL.]
JAMES G. FAIR.	[SEAL.]

[One line and one half interlined in eleventh line, of fifth page, before execution.]

For value received we hereby guarantee the performance of the within contract by the parties of the second part thereto.

Witness our hands and seals this twenty-third day of July, A. D. eighteen hundred and sixty-one.

C. B. POLHEMUS,	[SEAL.]
JOHN CENTER,	[SEAL.]
ROBT. BURNETT,	[SEAL.]
HORACE P. JANES,	[SEAL.]
ERWIN DAVIS.	[SEAL.]

For value received I hereby guarantee the performance of the within contract by the party of the first part thereto.

Witness my hand and seal this twenty-third day of July, eighteen hundred and sixty-one.

ERWIN DAVIS. [SEAL.]

Received, San Francisco, July twenty-four, eighteen hundred and sixty-one, the first installment of ten thousand dollars on within contract.

JAMES G. FAIR.

"EXHIBIT B."

[Copy.]

By the Act of the Legislature of April eleventh, eighteen hundred and fifty-seven, there was granted to W. F. Montgomery and others, their associates and assigns, the right and privilege to reclaim certain swamp and overflowed lands described in the Act, and for that purpose to construct certain canals—in consideration whereof they were to have all the odd sections of land within the territory embraced in the Act.

The grantees formed a corporation for the purposes of the Act, and made surveys with a view to locating the line of canals, and endeavored to enlist capital in the enterprise, without success.

My attention was called to the matter in the latter part of eighteen hundred and sixty, or beginning of eighteen hundred and sixty-one, and was by me laid before some capitalists, and the result of an investigation was an agreement to acquire the rights of the grantees, and carry out the project if we should find it feasible.

The rights of the grantees were thereupon transferred to Messrs. H. A. Cobb and H. S. Brown, and put of record, after a personal examination of the records at Visalia and Millerton by myself, in the early part of the year eighteen hundred and sixty-one.

The Visalia Canal and Transportation Company was then organized by me for the purpose of constructing the canals required by the Act of the Legislature. As the law concerning corporations did not then permit corporations to hold more than fourteen hundred and forty acres of land, no conveyance of the lands in question was made to the company; but as it was necessary that the lands should be made available for the

purposes of the corporation, it was agreed that their disposition should be controlled by it.

In the month of June, eighteen hundred and sixty-one, Messrs. Cobb and Brown conveyed to John Center, C. B. Polhemus, and H. P. Janes, the franchises and two hundred thousand acres of the lands described in the Act, upon certain trusts; and among others to convey the franchises to the Visalia Canal and Transportation Company, and the lands to such persons as the company should from time to time direct.

On the twenty-third day of July, eighteen hundred and sixty-one, the Visalia Canal and Transportation Company entered into an agreement with Delos Lake, by which he contracted to undertake the construction of the canals mentioned in the Act, for a compensation in shares of the stock of the company and lands; a half interest in which contract was assigned by Judge Lake to me.

The capitalists interested with us were Messrs. John Center, Charles B. Polhemus, Horace P. Janes, Erwin Davis, Robert Burnett, and H. A. Cobb.

On the same day Judge Lake and myself entered into an agreement with James G. Fair for the construction by him of a canal from King's River Slough to King's River, in Fresno and Tulare Counties—and paid to him in cash upon the execution of the agreement the sum of ten thousand dollars (\$10,000). This agreement, with Mr. Fair's receipt indorsed, is now in my possession.

The contractor commenced the work of construction of the canal immediately—purchased large quantities of materials and supplies, employed large numbers of men and teams, and prosecuted the work for a considerable time.

At the same time Judge Lake and myself contracted with J. E. Whicher to perform the engineering work, and with W. F. Montgomery to act as Superintendent of the work—at a compensation agreed upon—purchased an outfit for the engineering party, at an expense of upwards of one thousand dollars (\$1,000) and dispatched them to the valley.

Mr. Whicher, who had acted as engineer for the original grantees, resumed his surveys, and sometime afterwards reported to us that the canal was impracticable; whereupon we entered into negotiations with Mr. Fair for a cessation of work and a compromise of his claims under the contract. These negotiations terminated by the payment of a considerable sum of money to him and to Messrs Whicher and Montgomery, in addition to the amounts advanced to Mr. Fair, and paid him on account of the work, during its progress.

We paid Mr. Fair, on account of his contract, about thirteen thousand dollars (\$13,000) in addition to the ten thousand dollars originally advanced to him.

We subsequently paid for surveys conducted by Colonel Baker at our request, in the year eighteen hundred and sixty-two, about one thousand dollars (\$1,000) more. I understood that these surveys were made in boats.

The expenses of the Tulare Canal and Transportation Company, for legal services, clerk hire, and other matters connected with the prosecution of this work, amounted, in addition to the moneys so expended, to about six thousand dollars (\$6,000), making a total of expenditure on account of these lands and canals by us of upwards of thirty-one thousand dollars (\$31,000); of which amount twenty-six thousand one hundred and sixty-two dollars and sixty-four cents (\$26,162 64) was dis-

bursed in cash, and the sum of five thousand dollars (\$5,000) on account of legal services, etc., for the company, is still owing by the company.

The work in question was entered upon by us in good faith, upon the report of the engineers of the original company, and was prosecuted in like good faith until we were satisfied that we had been misled.

Respectfully submitted.

JAMES THOMAS BOYD.

STATE OF CALIFORNIA, }
City and County of San Francisco. } ss.

James T. Boyd, of said city and county, being duly sworn, deposes and says that the foregoing statement is in all respects just and true, to the best of his knowledge, recollection, information, and belief.

JAMES THOMAS BOYD.



Sworn to before me this sixteenth day of February, A. D.
eighteen hundred and seventy-four.

ALFRED C. CRANE,
Notary Public.

“EXHIBIT C.”

[Copy.]

BATTLE CREEK, Tehama County, Cal., }
February 10th, 1874. }

Hon. Mr. LINDSEY, *State Senator*:

SIR: I see in the legislative proceedings that you was appointed one of a joint committee to investigate the swamp land frauds in this State. In April, eighteen hundred and seventy-one, I located and settled on a piece of unsurveyed land, situated about eight miles from and south of Lassen's Butte, in this county. I moved my family on to the land in May, of the same year, and have lived on the same ever since, excepting awhile in the Winter, when the snow was so deep that I could do no work on the premises. I have always left provisions, household and kitchen furniture, tools, etc., on the premises, and would be there at work when work could be done—the snow being very deep in Winter.

In May, eighteen hundred and seventy-one, I sent one hundred dollars to the Sub-Treasurer of the United States at San Francisco, and demanded a survey of the premises; and on, I think, the first of June, the money was sent back, with information that a contract had been let for the survey of townships twenty-eight and twenty-nine, which would include mine; and during the month of June, Mr. Carlton (who said that he would return any land as swamp land that a man wanted him to, whether it was swamp land or not) came to make the survey. When he commenced the segregation, I sent a protest to J. R. Hardenbergh, describing the land, which was signed by seven or eight persons, beside myself. Mr. Hardenbergh, in his answer, said that he had instructed Mr. Carlton not to segregate any land unless the same was

notoriously swamp and overflowed. I heard nothing more from him for several months, when I wrote to him to know what had been done in the premises. He answered me by saying that he had suspended the survey in that township twenty-nine north, range four east, and said for me to get up a petition, describing the land, and send it to him. I did so, with a number of names to it, and wrote him word, that if that was not enough evidence to satisfy him that it was not swamp land, to let me know, and I could get one hundred men that would swear that it was not swamp land; but he failed to answer. I wrote to him several times, but could not get an answer from him. I sent to him for a copy of all the affidavits he had, of men swearing that it was swamp land, as I wanted to prosecute them for perjury; but he would not answer me. He never told me that I had a right, or could produce any evidence before him than the petition spoken of. I then brought suit in the District Court, Second District, against G. G. Kimble, the man who had filed on the land as swamp land, to have his title set aside by the State Court. He succeeded in having the trial put off once or twice; but when he found that he would be forced into trial, he came into Court and filed a disclaimer to the land, but was careful to have Mr. Champlin substituted in his place in the State Land Office.

Now, sir, if it is State land I think I should have it, as I settled on it in good faith before it was ever surveyed, or I should have my money back which I have spent on it. But it is not swamp or overflowed land, which I can prove beyond a doubt, if I have a chance.

Mr. Hardenbergh admitted, in a letter to Drummond, some time last Summer (published in the *Chronicle*), that a Mr. Chapman, in San Francisco, offered him a roll of money which he thought contained from five to seven hundred dollars, to approve of the Carlton Survey, but says he refused it. I think it doubtful whether he refused it or not.

There was a man by the name of Dryer sent up to see the land when the snow was so deep that he could not find any corner of the land. I claim he went to the top of the mountain, looked down on the valley, and said if it was not swamp land it ought to be, and so reported it.

The land I claim is the east half of west half of section eleven, township twenty-nine north, range four east, Mount Diablo base and meridian. The west half of the west half is claimed and occupied by another man.

There was some twenty-six hundred acres returned as swamp in townships twenty-eight and twenty-nine. If all the mud holes and little springs were put together, there might be one hundred and sixty acres in the two townships. I would like to send you affidavits enough to satisfy the State that it is not such land as the United States gave to this State, and then I would like for this State to give up all claim to the said land. If I cannot get that, I think it nothing but right that the State shall reimburse me for the money I am out, and for my time; or those who bought it of the State, should pay me before they are allowed to take possession of the same, as I am out about one thousand dollars, besides my time.

Please write to me at Battle Creek, Tehama County, California, and let me know if anything can be done for me. By so doing you will much oblige,

Yours, etc.,

R. A. MARTIN.

Mr. R. Klotz, from Shasta County, can tell you something about the land; also, of me.

P. S.—I would visit you but have not the money to pay expenses.

R. M.

FIFTH NIGHT'S PROCEEDINGS.

FRIDAY, February 20th, 1874.

Present—Ferguson, Chairman, and Messrs. Finney and Parker.

TESTIMONY OF JOHN J. DOYLE.

JOHN J. DOYLE, called, sworn, and examined:

At the request of the committee Mr. F. J. Clark conducted the examination of the witness.

Mr. Ferguson—Mr. Doyle, the committee want to get from you what evidence they can in regard to any frauds that have been perpetrated in the reclaiming or listing of swamp lands, or to the fraudulent spending of money for reclamation purposes. Any evidence or information you can give in will be received.

Mr. Clark—I will simply say that I know something about what Mr. Doyle is cognizant of about these matters; and with your permission I will ask him some questions.

Question—Where do you live?

Answer—I live in Merced County. Hill's Ferry is my Post Office address.

Q.—How long have you lived there?

A.—Four years and better.

Q.—Are you acquainted in Tulare County?

A.—Well, I am.

Q.—Do you know a stream generally called Mussel Slough, in that county?

A.—I do; yes, sir.

Q.—Do you know anything of the nature of the lands adjacent to that slough?

A.—Well, yes, sir.

Q.—Are they, in any sense of the term, swamp or overflowed lands?

A.—Well, I wouldn't think so at all.

Q.—What is the natural growth as to timber and grass on that land?

A.—Well, it is as fine a growth of white oak trees as I have seen in the State, except at Visalia.

Mr. Finney—It is better than that at Visalia?

A.—Well, I think there are finer trees—the trees are a little larger at Visalia.

Mr. Ferguson—On this land the growth of trees is similar to that at Kingston, is it not?

A.—Yes, sir.

Q.—What kind of trees are those?

A.—White oak, principally.

Q.—What size, generally?

A.—Well, I should judge there are some as much as five feet over.

Q.—Are there any indications upon those lands that they have ever been swamp or overflowed lands?

A.—No, sir.

Mr. Finney—When you say some of the trees are five feet over do you mean five feet in diameter?

A.—Yes, sir.

Mr. Clark—Does the timber in anywise indicate that water has ever stood around it.

A.—No, except just where there are some sloughs between the trees. Limburger's Slough is one, and there are two other sloughs there—running sloughs; and you can see marks there, water marks on the outside of the trees, by those sloughs. There are none except there.

Q.—What is your information as to a dam having been thrown across this Mussel Slough?

A.—Well, it was generally rumored, by those who pretended to be acquainted with the facts of the case, that there was, a number of years ago, a dam or levee thrown across Mussel Slough, in order to turn its water over this land to make it overflowed land.

Q.—By whom was this dam or levee constructed?

A.—That was supposed to have been done by Jack Southerland.

Mr. Ferguson—How long ago was this done?

A.—I cannot say how long; but it has been a number of years ago.

Mr. Clark—Does this man Southerland now claim a large portion of the land adjacent to that slough as swamp land?

A.—Yes, sir.

Q.—Do you know of anybody else who conducted water upon lands or caused water to flow over the land and then claim it as swamp and overflowed land.

A.—It was told me when I was there, that St. John had done the same thing. He has a field that I think is about six by ten miles in size.

Mr. Ferguson—That is a grant, isn't it?

A.—It is called the St. John Tract.

Q.—It is six by ten miles, is it?

A.—Yes, sir. I never heard the exact size; but I have been all over it, and I think that is about the size.

Mr. Clark—What is the nature of that land?

A.—A great portion of it is high, dry land. It would be considered by a traveler anything else than swamp land.

Q.—Did you ever see any portion of that St. John Tract, or of the Southerland Tract, that seemed to be natural swamp or overflowed lands?

A.—I never did, except that it was right at the extreme west end, down next to the lake, or at the mouth of King's River; there is a little land in there. I happened to be down there, last June, duck hunting, and the waters, at that season, are as high as any time in the year. The snow is then melting upon the mountains, and that makes the water high. There is some land that can be called swamp land then. I don't know whether it would be called so in a dry time.

Mr. Finney—You speak of one portion of this land being called the St. John Tract?

A.—Yes, sir; it is on the north side of King's River.

Q.—Has St. John really the possession of it now?

A.—Yes, sir; I think so. He is a cattle man.

Mr. Ferguson—It is a grant. He has no land there outside of this

grant. It is a Mexican grant, known as the Laguna de Cache Grant. I think it was overflowed once.

A.—I understand that Bliss claimed several thousand acres there; but how he claimed it, I cannot say. I know the land, or a great deal of it, at any rate.

Mr. Ferguson—That adjoins St. John's, there?

A.—Yes, sir.

Mr. Clark—What is the general nature of the vegetable growth on the tract you speak of as the Southerland land?

A.—There was one thing that I noticed, last June, which was rather remarkable upon swamp land. When I went duck hunting there, as I said, I passed through rosin weed that was as high as my horses' backs; as heavy a growth as I ever saw.

Q.—On what kind of land does rosin weed generally grow?

A.—We consider it the best wheat land.

Q.—What is your occupation?

A.—I am a farmer.

Q.—Have you a general knowledge of farming and farming lands?

A.—Yes, sir; I presume I have. I have been raised to it.

Q.—Have you a pretty general knowledge of the nature of farming lands in California?

A.—Yes, sir; I think so.

Q.—From your knowledge, is or is not the land in the Southerland Tract suitable for raising most all manner of grain?

A.—Well, I rather think some of it would need irrigating.

Q.—You think it would need irrigating?

A.—I do.

Q.—Mr. Doyle, do you know of any parties who dug a ditch from King's River, seeking to use the water for irrigating purposes in the neighborhood of the Southerland Tract?

A.—Well, yes, sir; there is a ditch—a canal, as they call it—that empties into the Fresno Slough. I have crossed it several times; I suppose a dozen times.

Q.—Do you know anything about the depth of that ditch down in the Southerland Tract neighborhood—what depth it was below the surface of the ground.

A.—Well, the ditch would not, I suppose, be considered near or in the Southerland Tract neighborhood.

Q.—Do you know of a ditch in the Southerland Tract neighborhood?

A.—I was told the last time I was up there that a surveyor had made a survey there with the idea of running a ditch for the purpose of irrigation. They told me they went up some seven miles from what is called the Old Southerland Adobe, or Homestead, I think he called it. It is now jumped by a settler. I think, in surveying seven miles, they told me they went fifteen inches below the surface.

Q.—Taking that as a basis, could the water from that river overflow that land?

A.—Well, I wouldn't think so; at least they came to that conclusion after surveying.

Q.—If that be true, how much would the water have to rise from the level of the river to make it overflow the land, if the ditch was fifteen inches below the surface? Wouldn't the water then have to rise fifteen inches above its level to overflow that land?

A.—Yes, sir, it would. I don't know but what it would have to rise

more. It appears from their conversation that they attempted to follow a line which would have made it run quite straight.

Mr. Clark—Mr. Doyle, what is the manner adopted generally by the farmers of that section for raising grain? Do they irrigate or not?

A.—They irrigate, or are attempting to. So far they have been rather backward about it.

Q.—What is their success in farming without irrigation?

A.—It has been very poor, so far.

Q.—Is it not, then, a fact, that to make farming successful in that section of the country irrigation is almost indispensable?

A.—Yes, sir, it is.

Q.—Do you know of any old settlers in that section who would be likely personally to be cognizant of the whole history of that case prior to as well as subsequent to the system of irrigation adopted there?

A.—Well, I don't know of the names of any of those old settlers, but there are such there, I think, from what the settlers told me when I was there. They named several, but I don't remember their names, that were there at the time that this levee was made.

Q.—From common repute, among persons who live there, in what light is the listing of these lands as swamp lands regarded?

A.—Well, it is regarded as fraudulent, I believe; as near as I could learn.

Q.—Do you know of any other tracts, of similar nature to this South-erland land, which have been listed as swamp land?

A.—Well, no, I believe not; I have heard of others, but I know of none myself, personally.

Mr. Ferguson—Is there any in your section of the State—near Hill's Ferry?

A.—Yes, sir; I think there is some, but I don't know of them. I was speaking to a man this morning, as I came up on the train, and he thought there was some there; but he didn't know where they were.

SIXTH MEETING.

TUESDAY, February 24th, 10 A. M.

Present—Ferguson, Chairman, and Messrs. Finney, Lindsey, and Hammitt.

TESTIMONY OF ROBERT GARDNER.

ROBERT GARDNER, called, sworn, and examined:

Mr. Lindsey—General, I will commence by asking what is the amount of swamp land now remaining in the different portions of the State that has not been applied for?

Answer—The amount of swamp lands that have been segregated by the State or the United States?

Question—That have been segregated by either.

A.—That have not been sold?

Q.—Yes, sir.

A.—Not much. There is some that has not been sold because of contest; but I don't believe there is twenty thousand acres in the State.

Mr. Finney—That remains unapplied for and unsold?

A.—Yes, sir. I don't believe there is nearly so much as that. I don't believe there is ten thousand acres.

Mr. Lindsey—That is mostly tide land, is it not?

A.—Mostly tide land; yes, sir. A good deal of it is tide land, which, under a recent decision, cannot be sold.

Mr. Finney—What decision is that?

A.—It is the case of *Kimball vs. McPherson*. It relates especially to the tide lands in Mendocino County, but it affects several surveys in your county, where they tried to gobble up everything.

Mr. Lindsey—Is there any considerable amount of swamp land that has been applied for by various parties, that is not in contest, that has not been approved?

A.—No; there is but a very small amount that cannot be approved. There are a great many surveys where we do not know that any swamp lands exist—some where contests are pending. There are more of these in your section of the country that are in contest than in any other portion of the State.

Mr. Finney—That is, that are in contest?

A.—That are in contest; yes, sir.

Mr. Lindsey—Well, there seems, General, to be now outstanding, some eighty thousand or ninety thousand dollars worth of swamp land scrip, or Controller's warrants against the Swamp Land Fund, that was issued several years ago. Do you understand how that happened?

A.—I do not. It happened before my time, and I have never examined it. I think Mr. Wanzer has. We were talking about it some time ago, and I asked him to look into it and find out the facts about those matters, and I think he did so, and can give you the information you want. Those matters refer more to the Controller's office. Our office does not show anything about the money, at all.

Q.—I want to ask you a question, perhaps a little foreign to this. Is there any reasonable objection to the State Land Office having control of the State tide lands, as well as the other lands? Heretofore, I understand, they have been managed by a Board of Commissioners.

A.—I think they could be taken charge of by the State Land Office.

Mr. Finney—Is it your opinion, General, that they could be taken care of more safely and satisfactorily by the State Land Office than by the Board of Commissioners?

A.—I think so; yes, sir; certainly at great deal less expense. As I understand, there are very few tide lands for sale. You are referring to the tide land limit?

Q.—Yes, sir.

A.—Well, I suppose the tide lands there ought to be closed up within two or three months.

Mr. Ferguson—In regard to the interest on these swamp lands—is that payable to you or to the County Treasurer?

A.—The County Treasurer; my office receives no money. We receive a report from the County Treasurers every month; and they report also to the Controller.

Q.—Well, is there any considerable amount of interest due on the swamp lands that have been applied for?

A.—Yes, sir; there is a considerable amount of interest due on those.

Where the swamp lands are in process of reclamation, then, of course, the interest is suspended.

Q.—Where they are pretending to reclaim?

A.—Yes, sir.

Q.—In your opinion, isn't that a bad provision of the law?

A.—Well, that is very hard to say.

Q.—Because I know they have been reclaiming some of these lands for a long time.

A.—In your portion of the State my report shows that they were not required to pay the two dollars and fifty cents per acre. We get our information from the Board of Supervisors; and these swamp land people convince them in same way that the lands are in reclamation. Mr. Lindsey is better informed, and can tell you more about that than I can.

Mr. Finney—Would it be admissible to ask if, in your official relations or connection with this matter of reclamation, there comes before you any evidence of the condition of the various reclamation districts?

A.—None whatever; it all goes to the Boards of Supervisors of the respective counties, who report to us, but do not detail their proofs. That is the law. If you were in the Land Office I would show you that law; it passed two years ago.

Mr. Lindsey—It is in the Act, is it not?

A.—No, sir; it is not in the Act. They passed a law providing for the repayment of all this that had been advanced on the swamp lands. The owners are to show to the Board of Supervisors that they have reclaimed the land. They furnish a certificate to me certifying the fact. On that we issue an order to the County Treasurer to pay back this money.

Mr. Ferguson—What is your opinion of that law; is it a pretty good thing?

A.—It is a pretty good thing for swamp land men. By the Act of Congress it was provided that the moneys received from the sale of scrip should go towards reclamation of the swamp lands, and I suppose this law is simply carrying out the intention of Congress; and the men who reclaimed were entitled to repayment of the money they had advanced on the land by the terms of the law.

Mr. Finney—Were there ever any cases where parties pretended to reclaim and did not?

A.—Yes, sir; they report to the Board of Supervisors, and, if the Board of Supervisors are up to their business, it is all right. If they can get the Board of Supervisors to certify to the reclamation of the land, the money will be refunded to them.

Q.—The fault of that law is, at the time it was framed there was no one present who had any particular desire to do the State good?

A.—These laws have all been passed in the interest of swamp land men. There has been no check upon them. The Legislature had taken the broad ground that if these men could reclaim the land they should have it.

Mr. Ferguson—Do you know the lands John Southerland applied for in Fresno County? Do you know whether they were originally swamp land or not?

A.—I know they were segregated to the State as such.

Mr. Lindsey—That land was about eighteen south, twenty east, wasn't it?

A.—I don't know.

Q.—I think so; there were two townships, eighteen-twenty and nine-

teen-twenty, of which the surveys were never approved until about eighteen hundred and seventy, I believe. The plats of the original survey was lost, and it was resurveyed by Mr. Atwill.

A.—Southerland, I believe, is the assignee of other parties, and not the original claimant of those lands.

Mr. Hammitt—What proof, if any, do you require from a party applying for lands before you issue a patent?

A.—It must be listed to the State before we issue a patent.

Q.—Do you require any proof that the land has been reclaimed?

A.—None, whatever; if they pay up in full they are not required to prove reclamation. They are not required to make it.

Q.—Then the reclamation is for the purpose of getting hold of the land?

A.—Yes, sir; and reclaiming it, I suppose. There has been swamp land reclaimed in this State—successfully reclaimed. There is some in your county; in fact, the best reclamations are in your sections of the country and around Suisun. The lands there have been successfully reclaimed. I might say, in answer to this question as to what my opinion is as to swamp lands, that I believe if there is any fraud at all in practice, it has been in practice in the southern portion of the State, in returning those lands as reclaimed; I don't know whether they are reclaimed or not.

Mr. Finney—In San Luis Obispo, Santa Barbara, and those counties?

A.—No, sir; in Tulare, Fresno, and Kern.

TESTIMONY OF JAMES O. WANZER.

JAMES O. WANZER, called, sworn, and examined:

Mr. Lindsey—Please state to the committee the result of your examination in reference to the issuing of these Controller's warrants on the Swamp Land Fund. What is the nature of those warrants; do they bind the State, or simply the swamp land districts?

Answer—As I understand that, the liability of the State would be more a question for the Courts to decide than for anybody else. I believe there is a provision in the law that the State is not bound. The intention originally was, to hold the land in each district responsible for the amount drawn on that district, and a lien was created on those lands for the payment of these warrants.

Question—Do you know what the amount outstanding is?

A.—In all?

Q.—Yes, sir; in the various districts?

A.—I could not tell you; it would be merely a matter of speculation if I did. Those who hold the warrants would be apt to know that.

Q.—Have you heard about what the amount is?

A.—I don't know that I have.

Q.—It has been stated before the committee that it is about eighty thousand dollars.

A.—I have heard it placed at that, and more, and sometimes at less.

Q.—For what purpose were these warrants issued?

A.—They were issued to raise money to use in reclaiming the land. The warrants were sold, and the money applied to reclamation purposes. Most of them, as I understand it, were sold at very low figures—indeed, as low as forty or fifty cents on the dollar.

Q.—In what part of the State was the reclamation ever made?

A.—They were mostly issued on districts in the central portion of the State—Sacramento, Yolo, and Solano, and some in San Joaquin. The San Joaquin warrants have been paid off to a great extent.

Mr. Ferguson—How about the Tulare warrants?

A.—They have mostly been paid off. The largest amounts were in Yolo and Sacramento.

Mr. Lindsey—I understand there is indebtedness against one district to the amount of some two thousand dollars.

A.—I don't know anything about that.

Mr. Finney—Do you know, Mr. Wanzer, anything about the correctness of the report that some of these warrants have been paid twice over or more?

A.—I never heard that report. They certainly could not be paid twice over any more than any other order on the Treasury could be.

Mr. Ferguson—It is said that there are some of these warrants in circulation. There was one exhibited before the other Swamp Land Committee the other night that had been punched with one of these little punches. I believe that is a method they have of canceling them, isn't it?

A.—It is one way of canceling them. Different officers cancel their papers in different ways, and punching them is one way. The evident intention was—at the time those warrants were issued most of the land was unpaid for. It was applied for by purchasers throughout this part of the country, and the warrants were issued, and it was expected that those warrants would be paid into the Treasury in payment for these lands; but these lands fell into the hands of these speculators, who got them for a ridiculously low figure, and now the State has neither the land nor the money. The whole subject of these bonds is one that almost defeats any inquiry into it; it is almost impossible to find out anything about this matter. The warrants are issued on the districts by number—warrant on District Eighteen, or District Five, or as the case may be—and then you start in to find out the boundaries of the district for which these warrants were issued. You will find it almost impossible. The law has allowed them to change their boundaries.

Q.—What means has the office of knowing that these districts are in process of reclamation, so that interest can be suspended? Do they inform you at the time of commencing the work?

A.—They are required to send the office information when the work is commenced. That, under the law, suspends the interest for four years; and if they do not complete the reclamation in four years, as the law stands now, there is no suspension of interest—all the back interest is due.

Q.—Are there any districts where they have been at it for four years?

A.—Yes, sir; and in those cases the last Legislature passed Acts extending the time. One of their provisions makes it almost impossible for us to report as delinquent any swamp land. To go to work and make out a list of those who are delinquent—it cannot be done; consequently it had better be let alone entirely.

Q.—Can't it be simplified in some manner? Certainly it is not right

to let these parties go on from year to year without paying interest on this money?

A.—There is any amount of districts that are in working order now that were not required to report to us at all. After the abolishment of the old swamp land system they were not required to report to us in any way, shape, or form. There is no use of our going according to our records and make out a delinquent list, and then have them to introduce evidence to show why they should not be on the list.

Mr. Lindsey—There is a very large amount of swamp land that has not been patented, is there not?

A.—Yes, sir; a great deal of it has not been patented, and a great deal has been that should not have been. Until the Act of eighteen hundred and sixty-eight, I think it was, there was no requirement, no stipulation providing that the land should be thoroughly designated as swamp land. The same was true with school land. A man could get a patent for anything he would apply for, whatever the nature of the land was, and without reference to its belonging to the State.

Q.—Do you know whether there are any lieu lands in existence—or has the State taken more on Spanish grants, lakes, etc., than is due her?

A.—There are more applications than are due her. There are many applications in the Surveyor General's Office now that are unapproved. We cannot do anything with them because there is no lieu for them. If you want to buy lieu you will be charged two or three dollars an acre for telling you where you can get it.

Mr. Ferguson—How long does an application lie in the Surveyor General's office before it is finally disposed of?

A.—There is no provision as to that in the law. It can lie there at the discretion of the Surveyor General. But in swamp lands there is no law to prevent a swamp land application being approved as it is filed in the office; and it generally is. The approval is a judicial act which cannot be hurried very well. Now, it was only two or three days ago that one hundred and fifty surveys came up from your county—Tulare. They were all approved in two days after. Where there is no trouble about it they are approved at once.

Mr. Lindsey—Were those surveys of land near Tulare Lake?

A.—No; they were little pieces scattered around there.

SEVENTH MEETING.

THURSDAY, February 26th, 1874.

Present—Ferguson, Chairman, and Messrs. Finney, Parker, Kercheval, and Lindsey.

TESTIMONY OF GEORGE G. W. MORGAN.

GEORGE G. W. MORGAN, called, sworn, and examined:

Mr. Ferguson—Mr. Morgan, this committee is appointed by the Legislature for the purpose of investigating certain frauds, alleged to have been committed in the location and in the reclamation of swamp lands in

this State. Any evidence which you can give before the committee will be of service to us. You were, at one time, Secretary of the Reclamation Fund Commissioners, were you not?

Answer—I am at the present time, sir.

Mr. Finney—Will you state to the committee, first, what is the monthly or annual expense of the Commission?

A.—The expenses of the Commission are: the salary of one of the Commissioners is two hundred and fifty dollars per month; that of the other two, two hundred dollars per month; and that of the Secretary, one hundred and fifty dollars. That is the whole of the expenses which is provided for by the Act. Then they have a messenger and a janitor, whose salaries are respectively fifty and twelve dollars per month. At the time that that Commission was organized it was represented to me by a gentleman, who had the very best reason to be well informed, as I supposed, that there would be from fifty to one hundred districts which would avail themselves of the provisions of the Act. In fact, as soon as the Commission was organized, as soon as I became its Secretary, a large number of persons wrote to me and came to me for particulars respecting it, manifesting great interest in this Commission. I received letters, week after week, and month after month, from persons inquiring how many districts had availed themselves of the provisions of the Act; and from time to time I answered these letters, and gave the writers the information they asked for. From what they wrote I gathered that they were desirous of informing themselves as to the provisions of the Act, and as soon as they could be sure what the expense would be they would act. The only district that has really availed itself of the provisions of the Act is Levee District Number Five, in Sutter County.

Mr. Finney—Is that Reclamation District Number Five?

A.—Levee District Number Five. The area of the district is one hundred and two thousand acres. By the provisions of the Act it is impossible to obtain a bonded fund of over six dollars per acre. They made application for six hundred and seventeen thousand dollars worth, and they have already had five hundred and eighteen thousand dollars worth issued to them. There is now in the hands of the Reclamation Fund Commissioners ninety-nine thousand dollars worth yet to be issued. The expenses, of course, have been heavy on that one district, and the Commissioners have very much regretted that no other districts made application for bonds; and they would have been glad to have had ten or fifty times the amount of business; it would have been more to their credit and honor. At the time I was invited to take charge of the affairs of this Commission, I was in the receipt of a salary of two hundred and fifty dollars per month, and the salary of the Secretary of the Commission was but one hundred and fifty dollars per month. It was represented to me that probably twenty million dollars worth of bonds would be required in the course of two years, and if I proved the right man in the right place my services should be considered, and, as the business of the office developed, my salary should be increased. I accepted the office then, and upon entering upon my duties I found, to my surprise, that there was not a penny in the Treasury to pay the incidental expenses. I had to use my own stamps in answering letters; and the smallest incidental expenses of the office, outside of stationery, I had to pay out of my own pocket. That continued for nineteen months, about.

Q.—Out of what particular Fund are the salaries of the Commissioners, and the Secretary, and the expenses of the office, to be paid?

A.—The Act provides that on the first of March, in each year, the Commissioners shall levy an assessment on the districts to pay the expenses of the office. They have levied the assessments, but not to the full extent of the needs of the office, because this one district must pay the whole amount which was required. They have hoped that other districts would come in, and have been levying the assessment for a less amount than has been due to the office.

Q.—Do you know the amount of work that the Commission has done in the Fifth Levee District—reclamation work?

A.—Well, sir, the first part of the duties of the office were very arduous. The Act was, in many respects, very imperfectly framed. We had to have frequent meetings, and had to obtain counsel. Judge Sanderson was employed as counsel, and every step we took had to be taken cautiously and guardedly.

Q.—I speak particularly with regard to the work done in that Fifth District. Can you tell us what the expenditures of the Commissioners were in the Fifth Levee District?

A.—The principal part of the business of the office has been in connection with the warrants that have been issued, and the bonds that have been canceled. Of course it is an important business to cancel five hundred thousand dollars worth of bonds.

Q.—Five hundred thousand dollars worth of warrants have been issued?

A.—Five hundred and eighteen thousand dollars.

Q.—What method do you pursue; is the work let out by contract, or do the Commissioners do the work?

A.—In regard to the levee, the process is this: The owners in interest make application to the Board of Supervisors of the district, and a meeting is advertised three weeks in advance. The Chairman of the Board of Supervisors is the President of the meeting, and the Clerk of the Board is Secretary. The question is put to the owners in interest: Shall the work of reclamation, as provided by the plan of the engineer, be carried out, and shall that indebtedness so created be provided for by bonds to be issued to that district? If the majority in interest answer in the affirmative, that settles the question; if in the negative, that settles the question, too. If in the affirmative, the Chairman furnishes a certificate to the Secretary of the Reclamation Fund Commission, stating the number of acres, and that a vote has been taken at that meeting that certain works of reclamation shall be executed, and that certain bonds shall be issued for the warrants to be issued by the County Auditor for that purpose. The consequence is, that the work of reclamation is proceeded with. The Reclamation Fund Commissioners have no knowledge of anything outside of their office; but at certain periods the Auditor's warrants are presented to the Commissioners, and interest is calculated upon the amount which the warrants represent, at the rate of ten per cent.

Q.—Well, the work is really done, then, by contract.

A.—I suppose so. We have no knowledge as to the work—only as to the issuing of the bonds; whether the work has been done faithfully or well, we do not know. We receive the Auditor's warrants, he taking the engineer's returns as his evidence of the fact that the work is performed.

Mr. Kercheval—What time did the commission organize?

A.—The third day of May, eighteen hundred and seventy-two.

Mr. Finney—Who are the present Commissioners?

A.—Hon. Charles F. Reed, Major A. S. Bender, and E. N. Strout.

Mr. Ferguson—Your salaries then come out of the district, do they?

A.—Entirely out of the district.

Mr. Kercheval—What amount have they paid you?

A.—Thirteen months salary out of twenty-two.

Q.—Mr. Parks states to me that they have paid you now—I think it is, a little over or about sixteen thousand dollars.

A.—It is nearly that amount, sir; but that is including the salary of the counsel, the insurance of the bonds, and the general expenses of the office. You can easily calculate; there is thirteen months, at, say, eight hundred and twelve dollars per month. There has been paid in the neighborhood of ten thousand five hundred and fifty dollars to the commission for salaries, the balance for incidental expenses.

Q.—Have you any knowledge of the fact that there was an agreement entered into and made between Mr. Parks—that is the owners, Mr. Parks being the agent of the district—and these Commissioners, that they should perform the duties of the office for the sum of two thousand five hundred dollars a year in case that other districts did not come in—that they should not be held liable for a greater amount than two thousand five hundred dollars?

A.—Well, sir, this is my understanding of it: Mr. Strout and Mr. Reed had a meeting of the Board, and it was said Mr. Parks had been down to see them, and stated that he wanted to get a letter from the Commissioners, putting an estimate on what they would charge them for the first year's expenses. He said that if that sum was put small, for the first year, the people would be more willing to enter into the idea. And as we had no money on hand at that time, they thought it would be better to accept two thousand five hundred dollars than get nothing at all. That was on the sixteenth day of August, eighteen hundred and seventy-two. Strout and Reed talked the matter over; Major Bender was not present at that meeting; and I was instructed by the Commission to inform Mr. Parks that they had considered the matter, and would agree to that amount for that year—the idea being that the balance or surplus would be made up at the next assessment. It never entered into the idea of the Commission that that would be all the expenses that would be incurred, as the general expenses of the office had already been more than two thousand five hundred dollars at that time; but as we had no money at all to pay the least contingent expenses, we thought it would be better for a few months to have something to go on with than to have nothing at all. That is my impression of how the case stood from what I heard of the conversation.

Q.—You informed Mr. Parks, then, of that fact?

A.—I informed Mr. Parks, that in pursuance of his request, the Commission was desirous of meeting his views, and for that year would accept of two and one fourth cents per acre on the whole amount, which would make two thousand five hundred dollars; and I had no impression at the time that the Commission intended to release the district from its share of the expense, except for that year.

Mr. Parker—What was your idea of stating that you would not charge them more than that, and then intending to make them responsible for all the expense that the Commission might incur?

A.—We did not know how many districts would come in at that time; and the Commissioners instructed me to send the letter to Mr. Parks.

Of course there is no other fund out of which to draw, except the money coming in from that and other sources. It was the intention of the Commissioners to make it equitable for all, and they agreed that for that year they would put it at that sum. I don't suppose that the Commission intended to make that a finality.

Q.—If this was not intended for a finality, then you must have had a reservation, or else your agreement must have been that you would not consent to take two thousand five hundred dollars but for that year?

A.—I don't wish to be supposed to represent the Commissioners in this matter. I only state my impression from what I knew of it. It was only intended to be a sort of present Contingent Fund, out of which to pay the contingent expenses of the office, there not being any money in the Treasury.

Q.—Can you inform the committee how that communication to Mr. Parks read? [For this letter see "Exhibit D," attached to the testimony of this witness.]

A.—I believe I have a copy in my office; at the same time I am sorry to say that the ink is very bad, and the copy is somewhat faded; but it was to the effect that for that year the Commission would consent to make the assessment two thousand five hundred dollars, the idea being that the other levee districts would then come in; but they did not for months afterwards. There was a litigation pending in the Supreme Court to decide the constitutionality of the Act. In the meantime the expenses and salaries had been going on, but at last the decision of the Supreme Court confirmed the constitutionality of the Act.

Mr. Kercheval—Have you not an entry now on your books of the agreement to transact the business of the district for the sum of twenty-five hundred dollars a year?

A.—Not twenty-five hundred dollars a year, sir; but it was for that year, as the records of the office would show.

Q.—It specified for that year?

A.—For that year; yes, sir—the idea being that for future years the current indebtedness would be provided for by the assessments.

Q.—If it should so happen that this entry upon your books should not specify that it was for that one year—you never having informed them that you had changed your mind as to what you would charge them; would they be liable to pay more than twenty-five hundred dollars a year?

A.—Mr. Parks knew very well that there was only that one district to be attended to; and is it possible that any gentleman could suppose that we three gentlemen could perform the duties of that Commission, and attend to the issuance of six hundred and seventeen thousand dollars' worth of bonds, and print the bonds, etc., for twenty-five hundred dollars a year?

Q.—As I understand it the printing of the bonds was no part of that. Now, I will ask you if these Commissioners met at stated times, and what amount of time they have devoted to this business? How many meetings have they had, and what amount of time did they devote to that district?

A.—I will take my own case. For instance——

Q.—I speak of the Commission?

A.—One or the other of them has been attending to the office many times when there have been no meetings, to be prepared to attend to any business which might come in. The stated meetings have not been very frequent. Whenever the demands were made upon the Commission the

Commission met and organized for the purpose of doing the business. Had there been more business to be transacted they would have been here all the time, had they been required.

Q.—How many meetings have you had?

A.—I should suppose in the neighborhood of thirty, as a rough guess. I cannot say positively at this moment.

Q.—How many days did you consume at each meeting?

A.—Usually we would get through in one day; in some instances it took two or three days, as the case might be, according to the amount of business that was to be performed.

Q.—What amount of bonds—what number, I mean—not what amount—how many bonds have been issued?

A.—I believe there have been ten hundred and thirty-six bonds issued, sir. There has been ten hundred and thirty-four bonds, and then a large number of certificates, amounting to about two thousand dollars in all. A certificate would be issued and then brought back with other certificates, and then bonds would be issued for them.

Q.—Then the issuance of these bonds would not be a remarkable amount of work?

A.—Not a remarkable amount of work; the responsibility would be more than the labor. The issuance of five hundred and sixteen thousand dollars worth of bonds is somewhat responsible, and required faithful men to perform the task.

Mr. Lindsey—Do you know what these bonds sold for—about?

A.—I have no knowledge of that, except from hearsay.

Mr. Finney—Have you any means of knowing—do you know whether the Reclamation Fund Commissioners have handled any money outside of that district?

A.—There is no other district that has made application for bonds, and scarcely none that has entered into any business relations with the office. I would like to say that while of course I am bound in duty for the acts of the Commissioners, I feel as though my claim was somewhat different from theirs. They might do and order me to do whatever they saw fit, and I should have to do it, while at the same time my own judgment might be contrary to such a course. For instance, when this letter was written to Mr. Parks, my own judgment was against any such arrangement, but of course I could not speak of it. My services have been given for many months up here, and I have endeavored to devote my best energies to the performance of the duties of the office; and whatever the Commissioners may have done in making an agreement with Mr. Parks, or in any other matter, I don't think that my salary ought to be put in jeopardy by any such arrangement.

Q.—You are appointed by the Commissioners, as I understand, and directly responsible to them?

A.—I am appointed by them, and directly responsible to them; yes, sir. The Governor appoints those three gentlemen, and they appoint the Secretary. I had to undergo an examination by an expert as to my capacity, and I believe I can say that the books of the Commission have been kept in such a manner that would warrant my receiving the full salary to which I am entitled. The books have been of a very difficult character to keep.

"EXHIBIT D."

The following is a copy of the letter referred to in the testimony of Mr. Morgan. It is copied from the copy book of the Reclamation Fund Commissioners, as nearly as it can be deciphered, the ink being very much faded. All the letter, however, with the exception of the next to the last line, is quite legible:

"Aug't 16th, '72.

"W. H. PARKS, ESQ.,

"Marysville, Cal.

"DEAR SIR: I am directed by the Board of Reclamation Fund Commissioners to inform you that they have considered your proposition, and have unanimously resolved as follows:

"That Levee District No. 5, of Sutter County, be assessed at the rate of 2½c and that the bonds be issued application.

"Very respectfully yours,

"GEORGE G. W. MORGAN,

"Secretary."

The records of the meetings of the Board of Reclamation Fund Commissioners contain the following entry, the meeting being held August sixteenth, eighteen hundred and seventy-two:

"Mr. Strout moved that the sum of two and one quarter cents (2½) per acre, be assessed against Levee District Number Five, of Sutter County, as and for its proportion of expenses of the office for this year, and that the Secretary be instructed so to notify Mr. Parks by letter.

"Mr. Bender seconded. Carried."

TESTIMONY OF J. W. C. COLEMAN.

J. W. C. COLEMAN, called, sworn, and examined:

Mr. Ferguson—Mr. Coleman, will you tell us what you know in regard to the financial matters of the old Board of Swamp Land Commissioners, what they did, etc., and how and where they expended the money, and all about their affairs?

Answer—I think that the old State Board of Swamp Land Commissioners was organized in eighteen hundred and sixty-two; I may be wrong as to the date, but it is a matter of fact that the Board existed. The Legislature elected three Commissioners, who served as Commissioners to segregate the swamp lands of the State. They were empowered to appoint engineers, and those engineers were to make surveys. They were in existence about two, perhaps three, years.

Mr. Ferguson—Do you know where those books are which would show the amount of money which was received by them from all sources?

A.—They never received any money.

Q.—Do you know the amount of money that was received in the Swamp Land Fund, and was in that Fund when they took hold of the work?

A.—I can furnish you information as to the amount of money that was paid into the Fund up to the time of the abandonment of the Commission, and the organization of the district system.

Q.—That includes all the money that was previously paid in, does it not?

A.—Up to the organization of the district system—this is a copy verbatim of the account; I think it has been compared. There has been paid into the Swamp Land Fund four hundred and thirty-seven thousand four hundred and seventy-four dollars and seventy-eight cents.

Q.—That is the total amount that has been paid in?

A.—Yes, sir.

Q.—Well, was there not more received during the time of their existence?

A.—That was all the money that had been received up to the passage of the Act of the twenty-eighth of March, eighteen hundred and sixty-eight.

Q.—Did that include the money that was on hand at the time the State Board of Swamp Land Commissioners was created?

A.—It did; yes, sir.

Q.—How much of that money was expended for reclamation purposes; do you know?

A.—One hundred and sixty-seven thousand one hundred and fourteen dollars and eighty-four cents.

Q.—Did that include the salaries, etc.?

A.—That included all the expenses of reclamation and salaries of engineers in the field, and the pay of the workmen.

Q.—In what counties was that money expended for reclamation purposes?

A.—In Sacramento, Colusa, Sutter, Solano, Tulare, San Joaquin, Yolo; that is seven counties.

Q.—When this Act was passed was the money returned to the counties in accordance with the amount they paid in for reclamation?

A.—No, sir.

Q.—It was not? What amount was returned to the counties; what was the basis of the return; was it returned pro rata?

A.—The Swamp Land Act of eighteen hundred and sixty-eight required that all moneys that were remaining at that time in the General Swamp Land Fund, which amounted to about one hundred and thirty-two thousand dollars, should be returned to the counties from which the money was received; but there must first be deducted the amount of the reclamation expenses in the various districts. The general reclamation assessment amounted to three hundred and eighty-two one thousandths of the total amount on each district, and was assessed pro rata.

Q.—Do you know whether it was for reclamation purposes or not?

A.—Yes, sir; everything was for reclamation purposes.

Q.—Do you know whether the counties had called in any money or not, or used any for reclamation purposes?

A.—Each county had to pay alike. There were twenty-four or twenty-six of them in which nothing was expended.

Q.—How is San Mateo County?

A.—That county paid into the State Treasury eleven thousand dol-

lars, first and last. Under the law San Mateo received six thousand nine hundred and sixty-seven dollars and seventy-nine cents, and expended in reclamation, four thousand three hundred and six dollars and ninety-three cents; but that reclamation was not performed in that county; there was not a foot of land turned up. But San Mateo County paid for the building of the levee around Sacramento, building levees in Yolo County, and in District Number One, and all over the State, wherever they did attempt to reclaim the lands. I will cite an instance here. There is one county in particular that I will refer to. Fresno County paid into the State Treasury thirty-nine thousand six hundred and nine dollars and eighty-one cents. It expended nothing in the way of reclamation, but it was taxed fifteen thousand one hundred and thirty dollars and ninety-four cents, and under this bill of eighteen hundred and sixty-eight, was to receive twenty-four thousand four hundred and seventy-eight dollars and eighty-seven cents.

Mr. Kercheval.—Do I understand you to say that the money that was expended in constructing this levee around Sacramento was drawn from the General Swamp Land Fund, which was raised pro rata from all the districts in the State?

A.—Prior to the organization of the districts?

Q.—Yes, sir.

A.—Yes, sir.

Q.—And never full credit given back to the other districts?

A.—No, sir; there were no districts then. If you will refer back to the statutes, you will find that there was a special Act of the Legislature which donated eighteen thousand dollars for the improvement of this levee, which was paid out of the General Swamp Land Fund, and this is a part of the expenses.

Mr. Parker.—Was that mode of operation expressly authorized by law?

A.—Yes, sir; it was authorized by law.

Mr. Ferguson.—But the return of the money was hardly authorized by law in that way?

A.—I am not prepared to say. They operated under the statute.

Mr. Kercheval.—What year was that Act passed which adopted the district system?

A.—Eighteen hundred and sixty-four, I think it was. It was passed the first year of the biennial session, I think.

Mr. Ferguson.—Is there any means of obtaining information as to how this money was expended?

A.—Yes, sir.

Q.—How can we obtain that information?

A.—In the Controller's office.

Q.—Mr. Green would be the party, would he?

A.—Yes, sir.

Mr. Kercheval.—Were you one of the old Board of State Swamp Land Commissioners?

A.—No, sir.

Mr. Finney.—Do you know whether there is fifty thousand dollars, or about fifty thousand dollars, received from the General Fund, that ought to be transferred into this reclamation district?

A.—Which—the General Fund?

Q.—Yes, sir; the General Fund of the State—the old General Swamp Land Fund?

A.—I do not.

Mr. Kercheval—Do you know if there is any such a thing in existence now in this State Treasury as a General Swamp Land Fund?

A.—It has been abolished. It ceased to exist after the passage of that Act—after the apportionment among the counties.

Q.—That is how I understand it; but Mr. Parks alleges that there is now fifty thousand dollars in the Treasury, in what he designates as the Old Swamp Land General Fund.

A.—There was three hundred and twenty-six dollars in the General Swamp Land Fund two years ago, when the Legislature passed an Act which required the cancellation of all warrants against Funds that had laid in the Controller's office for a longer term than two years; and there was three hundred and twenty-six dollars worth of warrants that had been surrendered by the parties to whom they were drawn, and they were canceled; and the Fund is no longer in existence.

Mr. Ferguson—Who would be apt to know positively in regard to that—whether there is fifty thousand dollars or any other sum remaining there which should have been transferred.

A.—Well, I would, if anybody did, for I have kept the books in the Controller's office for four years; and I am auditing clerk in the office, and know everything of that character that transpires.

Mr. Parker—Under the operation of this law then, the money received from swamp land districts in Fresno County, for instance, would go for the reclamation of swamp land in Sutter County?

A.—It has been so appropriated, sir.

Q.—To the extent set forth in the figures to which you have referred?

A.—Yes, sir. There never was a district in Fresno County, and there never was a district in San Mateo County. There never has been any money expended in twenty-six counties.

Mr. Ferguson—Contra Costa was out how much?

A.—Contra Costa pays into the State Treasury twenty-two thousand six hundred and thirty dollars; it is assessed for eight thousand six hundred and forty-six dollars. She received nothing.

Q.—There were some counties received more than they paid in?

A.—Yes, sir; Sacramento received all she paid in, and something more.

Q.—How much more did she receive?

A.—I cannot tell you.

Mr. Finney—Is there any means of finding out how much she paid in and how much she received?

A.—Yes, sir; you can find out from the Controller's office.

EIGHTH MEETING.

SATURDAY, February 28th, 1874—2 o'clock, P. M.

Present—Ferguson, Chairman, and Messrs. Parker, Kercheval, Finney, and Hammitt.

TESTIMONY OF JEFFERSON WILCOXON.

JEFFERSON WILCOXON, called, sworn, and examined:

Mr. Finney—Do you know anything about the affairs of Reclamation District Number Five?

A.—No, sir; not personally.

Q.—Have you any connection with the district, in any way, as a purchaser?

A.—No, sir.

Q.—Do you know who took the contract for doing the work in that district?

A.—No, sir; I do not. I expect you have come to the wrong man; it is my brother you want instead of me. He lives on the opposite side of the river from the district, and owns a large tract of land there. You can get information about the affairs of that district, from S. J. Stabler, of Yuba City, and Phil. Drescher, an engineer who was engaged in the work of reclamation in the district. He lives in Sutter County, at Nicolaus. I am inclined to think that Mr. Carroll was one of the men that contracted to do the work; but I don't know this of my own knowledge.

Mr. Finney—Have you any information by hearsay about the reclamation affairs of that district?

A.—Nothing that would amount to anything at all. For the past week I have been talking about the matter with Mr. Parks, and I have some information from him. Drescher did some of this work; he is an engineer, and owns a tract of land inside of this levee. This man Carroll—he also made some levee there. He lives close to Nicolaus, in Sutter County. He is a contractor. He was one of the men that done work in District Number Two, and he did some work in District Number One.

TESTIMONY OF GROVE L. JOHNSON.

GROVE L. JOHNSON, called, sworn, and examined:

Mr. Ferguson—Have you ever been interested in reclaiming any swamp lands in this State?

A.—Oh, yes; I have filed for some swamp land.

Q.—Have you ever been interested in the reclamation of it?

A.—No more than as Swamp Land Clerk of the Board of Supervisors of this county. I was in that position for nearly eight years here.

Mr. Finney—You were Clerk for District Number Two?

A.—Districts One, Two, Thirty-eight—in fact, there were about thirty districts. There has been a good deal of this swamp land money that is gone. I had a statement which would show just the amounts, but I haven't it with me. I can get near enough to it. The reason I came to know anything about it, I was employed to assist in defeating or opposing a bill which we thought a bad bill; and then I examined the question to see what had become of some of the money. We found in District Number Two there was a discrepancy between the money that was and the money that ought to be on hand, of about thirty-three thousand dollars. Mr. Parker will remember the matter; he was on the committee. The certificate of the Register of the State Land Office showed that fifty-four thousand dollars, in round numbers, had been paid in, and the certificate of the State Controller showed that thirty-five thousand dollars worth of warrants had been drawn; that would leave a balance of nineteen thousand dollars. Instead of that balance

being on hand, there was fourteen thousand dollars worth of warrants still unpaid.

Mr. Finney—That made thirty-three thousand dollars altogether which was unaccounted for?

A.—Yes, sir; that made thirty-three thousand dollars that was unaccounted for. But in reference to the purchase, the buying of and applying for swamp lands, I know nothing more than the routine by which they are obtained. If these swamp land men find out there are vacant swamp lands, they go for them; and under the law of eighteen hundred and sixty-eight, they only had to find that land was vacant and then they could file for it.

Q.—Did you ever get any clue as to where that thirty-three thousand dollars had gone to?

A.—No, sir; we only know it is not there.

Mr. Hammitt—You know who the custodian was—who had the handling of the money?

A.—Oh, yes; all the swamp land money was paid in to the County Treasury and from there into the State Treasury. The Swamp Land Commissioners had the expenditure of the money at first, and finally the Supervisors.

Q.—Who were the Swamp Land Commissioners under whose administration this thirty-three thousand dollars had disappeared?

A.—I don't remember all their names; the law of eighteen hundred and sixty-three will give you their names. The other districts in this county do not show quite as bad as District Number Two, but it shows money paid in and no account for it. In the course of our explorations we discovered two warrants which had been issued in duplicate. The parties who had them kept one of them to show the committee; the other has been paid in.

Mr. Ferguson—Under whose administration were those warrants issued the second time?

A.—We don't know that. They had been canceled by being cut; you know how they do that—it was one of these triangular cuts.

Q.—Well, could you give us any clue that would enable us to obtain evidence in regard to parties who have issued these warrants?

A.—The warrants you know were issued by the State Controller.

Q.—Yes, sir; but the second time—how were they issued then?

A.—I only know the party who had the warrants—Mr. Clark—who kept the warrants because they were canceled. General Houghton said he knew of two that were out.

Q.—Couldn't a large portion of this surplus have gotten out by mistake?

A.—Yes, sir; the warrants might have got out by mistake, but still the money isn't there. Most of these lands that have been applied for in large quantities, they are not really new applications; they are applying for land that somebody else had applied for and let it go.

Mr. Finney—That other persons had applied for, and then failed to comply with the law?

A.—And failed to comply with the law; yes, sir.

Mr. Ferguson—What evidence is required by the Board of Commissioners of the reclamation of lands—that the lands had been fully reclaimed—in order that the parties may get their money back from the State?

A.—An affidavit from the Trustees; that is all. They swear that they expended two dollars an acre in reclamation.

Mr. Parker—Do you know of any cases where they have reclaimed land by putting water on it?

A.—No, sir; I am not personally acquainted with any such case. I know there was testimony given in a certain case in reference to land—it occurs to me now that it was in San Joaquin County. The testimony before the United States Surveyor General was that they had irrigated the land in Summer time. The reason I remember it, Mr. Redding argued the case against the swamp land men, and Mr Shanklin was on the other side, and I assisted him in getting up his brief. I think the land was in San Joaquin County; I may be mistaken. Mr. B. B. Redding would remember where it was, because he was cognizant of all the facts in the case.

Mr. Parker—Have you any knowledge of cases wherein the applicants have secured the appointments of United States Deputy Surveyors to make the surveys of the lands?

A.—No; I have none except through hearsay; that is all. I don't know of any such cases of my own knowledge.

Q.—Whom did you hear say that such had been the case?

A.—Well, hearsay evidence is not very good evidence. I presume you have all heard it yourselves as to what Mr. Chapman done, and what another land man done—got parties to survey those tide lands. They didn't have to make new applications for surveys of swamp lands; most of that they purchased had already been segregated some years before, and the parties who had originally applied for it had not paid for it; and they took it up under the Green Bill—the Act of eighteen hundred and sixty-eight.

Mr. Kercheval—You have been in the Surveyor General's office, have you—that is, you have been employed there?

A.—Yes, sir.

Q.—Since the passage of the Act of eighteen hundred and sixty-eight?

A.—Yes, sir.

Q.—You are familiar with the manner in which these surveys are made and approved in that office?

A.—Yes, sir.

Q.—Will you please state what you know about it?

A.—Well, an application comes in from the County Surveyor. The clerks who receive the application look at the map, and if they find that there is no application already on file for the land, the application is allowed, and the map properly numbered and filed away. If a man wants it approved, he can have it approved then, or have it wait. If it comes under the law, they look to see if it has been segregated as swamp land. If it has not been, they next, of course, notify the United States Surveyor General that it has been claimed as swamp land.

Q.—What would you consider a legal survey, such as the Surveyor General would be authorized to approve?

A.—Well, if a survey comes into the office with the County Surveyor's signature to it, certifying that he had surveyed it, the Surveyor General would have a right to accept the survey. Of course, a large number of these surveys were made upon the ground; but of these large surveys, I don't think a great many of them were made on the ground.

Q.—Is it your opinion that a survey made without going on the ground was one that complied with the law in regard to the application?

A.—No, sir; I think it does not.

Mr. Finney—The law requires an actual survey of the land?

A.—That is as I understand it, sir.

Mr. Kercheval—It has been testified here that these lands were sometimes surveyed by laying down some tissue paper on the United States map, and tracing a copy of the United States survey.

A.—That is the way it is done. If a man desires to purchase, he takes a map which will show the swamp lands, and if there is any vacant land there he gets a description of it and files for it. The maps are supposed to be public property, and he can get access to them without any difficulty. A survey on the ground is made in some cases—it has to be.

Q.—Under this system of obtaining swamp lands without surveys, do you think it possible for a speculator to secure title to lands claimed by settlers under United States laws, without these settlers knowing anything about it?

A.—Most assuredly.

Q.—It is?

A.—It has been done, most assuredly.

Q.—Can you state some cases where it has been done?

A.—I think the Sierra Valley land case was one. I think they obtained title finally to that land; they filed for it. I think there is a case in Inyo County where they have done it. In fact, I guess there is scarcely a county in the State where they have not done it. In Solano County they had quite a lawsuit about—but that was school land, come to think of it. In Yolo County they got a man's ranch, and made him pay three thousand dollars for their title. I don't remember his name, but the man who told me of it was Mathews, the surveyor. He said they made application for it, and got the man's ranch away from him. A German over there was in the same boat, and a man named Terry Wright, in Yolo County; I think part of his land is in the same situation.

Mr. Parker.—Is there any recourse at all for these settlers after the land has been stolen from them?

A.—I don't know of any, under the law. That law of eighteen hundred and sixty-eight provided that if a man made an affidavit that the land was swamp land, and he desired to purchase it, he had only to apply for it—it didn't require anything else, and the Surveyor General was guided by the map in his office. If the map showed the land to be vacant, he approved the survey. The law of eighteen hundred and sixty-eight provided that the Surveyor General must wait sixty days in case of school lands before approving the survey; but in the case of swamp land he could approve it the same day. I think if the committee should look for that money that has been paid in, I believe that they could find it, or find out where it had gone to. There has been an immense amount of money paid in for swamp land. In this county alone there must have been two hundred thousand dollars paid in for swamp land; I think as much as that.

Mr. Finney—That is Sacramento County?

A.—Yes, sir; and I am inclined to the belief that twenty-five hundred dollars or three thousand dollars would cover all that came back. The reclamation, as *Mr. Kercheval* can tell you, he being a resident here—the reclamation that has been done in this county has been done by the owners themselves, by special taxes levied upon their own lands and collected by themselves.

Mr. Ferguson—How can the committee obtain evidence as to where this money has gone to?

A.—I don't think you could trace up any of that evidence to amount

to anything in the short time allowed the committee. I think the only way you could get at that is to commence right at the beginning and follow the whole thing up; find out where every dollar came into the County Treasury, and where it went out, and then pursue the same course until they found out where the money now is, or who last had it before it disappeared. That course would take more time than the committee could give to it.

In eighteen hundred and sixty-six, after I was appointed, I went to the State Treasurer to try to find out something about the different districts. He said I must go to the Controller's office. I went there, and the Controller said he would show me what was turned over to him by the Swamp Land Commission. They showed me the money paid in and the money paid out, and told me to go to the County Treasurer. I came to the conclusion that any of them didn't know anything about it, and that I could not find out anything about it. I reported to the Board of Supervisors, and they accepted the matter as it was, and no further efforts were made to discover anything. Last year we obtained a certificate as to the amount of money paid into these two districts. If you take each separate location, it shows in the Land Office how much has been paid on it into the County Treasury, and from there into the State Treasury. I have heard it intimated that the money might have slipped out of the wagon in going from one office to the other. I know the figures don't agree. These gentlemen who are on the other Swamp Land Committee will remember that our books did not agree the other night. If you were to examine into the matter, you would have to go to the County Treasurer's books, and from the County Treasury to the State Treasury, to see if it got to him. It would be quite a job, but I think it would repay the State. It certainly would repay the swamp land men.

Mr. Kercheval—We would have to overhaul the County Treasurer's office in every district, would we not?

A.—Yes, sir. You take Tulare County; when I was in the Surveyor General's office here the Board of Supervisors sent up here to have an investigation made, to see what had become of the money. They discovered quite a large amount of money that had been applied to their district, up to that time, which they had never received. I am not positive as to the amount, but it was quite an amount. I think Mr. Coleman assisted in making the examination and looking it over. Also in District Number Eighteen they made an examination, and found they had not received the amount of money they were entitled to; I think it was some sixteen thousand dollars or eighteen thousand dollars.

Mr. Ferguson—Where is this district?

A.—In Yolo County. The great trouble, it seems to me—if the committee will excuse me for expressing an opinion—the great trouble, it seems to me, in the swamp land business here, has been the—one great trouble has been allowing the applications to remain on file so long. For instance, I file an application for swamp land. I let it stand until I hear that you, Mr. Finney, or you, Mr. Kercheval, desire to purchase it, or that you have settled on it. Then, after a year or two, when you want to buy it, you find my application is there, and has been there for a year or two prior to your settlement. I don't know whether you are investigating as to school lands; but that has been the course

that has been followed with school lands in the State. There came in one day, when I was in the Surveyor General's office, three hundred and eighty applications, all filed by one man.

Q.—That was Chapman, wasn't it?

A.—No, sir; Colonel Mauldin.

Mr. Clark—Were those applications all in his name?

A.—None of them were in his name, not one.

Q.—They were dummies?

A.—These gentlemen who deed away their rights for two dollars and fifty cents, etc. I know we were kept busy just then, and General Bost was going to hire another clerk; but I needed money, and I told him I would work nights if he would pay me for it. That is how I came to know about it. When I was last in the office there were applications that had been on file there for five years, unacted upon—just left right there, and nothing done about them; and if you wanted to buy the land, you had to buy it taking the chances of there being a prior application for it. The most of the swamp land applications that I recollect of were in the southern part of the State. Most of them were made by Gurnett and Chapman; they had filed for everything there. And then Mr. Johnson, a namesake of mine, filed for a good many there. Mr. Johnson was County Surveyor of Tulare County, I believe.

Mr. Ferguson.—James H. Johnson?

A.—Yes, sir; he is in the city here now. Yes, he filed for a good many—for quite a number. The reason I remember about his applications is, I returned some of them for informalities. I recollect the case of a lady living up at Cottonwood, Tehama County. The application was on file, and the applicant wanted it approved. Mr. Campbell told me she was there, and I notified the man of the fact, and notified him to contest. He did not, and I approved it to her. He then made a great cry about it to General Bost. I am inclined to the belief that, unless General Gardner has gone through them carefully, that there are applications for school lands there now that were filed in eighteen hundred and fifty-eight (1868?) just after the passage of this Green bill. The records are just kept in a book that gives the name of the applicant, the name of the attorney, the township, range, etc. There were quite a number of school land applications. I looked over them casually one day, and I think there must have been four hundred to eight hundred of them, on land that had not yet been surveyed by the United States. They just took every sixteenth and thirty-sixth section in the State, and filed on them, without reference to whether it had been surveyed or not. They went all through Alpine County, and all through your county, and all through San Bernardino and San Diego, and up into Los Angeles; and several applications were made for school lands for the same section. On one section there was twenty-three applications, and the applications were made just without reference to whether the land had been surveyed or not. I think General Gardner, since he has been in the office, has stopped that more than you would naturally suppose that anybody would. He has approved a great many, and has cleaned up a great many. Unless they do something before the end of his term of office to prevent him, I think he will have everything cleared up there.

Mr. Hammitt—When persons file applications are they required to pay for the application?

A.—Not in swamp lands; in school lands they have to pay a fee of five dollars.

Q.—This Colonel Mauldin; was he required to pay?

A.—Sometimes.

Mr. Ferguson—At the time you received these three hundred and eighty applications, did you receive the money for filing them?

A.—No, sir; there was an account kept for some of them.

Q.—Where does this fee go to; into the State Treasury, does it not?

A.—It did at first; it was supposed to; and then there was an Act passed in eighteen hundred and seventy, which provided that the Surveyor General should pay over—should use as much of the money as was necessary to be expended in the hearing of the claims, etc., and pay the balance in. Mr. Gardner, I believe, has paid in fourteen thousand dollars, fifteen thousand dollars, or sixteen thousand dollars; his predecessor paid in nothing. Those three hundred and eighty applications, that Mauldin made, were for lands in all parts of the State; some in some counties and others in others. A gentleman was employed to make out a new map of swamp lands, as the old map had become blurred. Captain Slade was employed, by Bost, to make out the new map, and to plot out each survey by itself on the new map; and in doing so he found quite often that there were pieces of land that were irregular in shape—corners, and irregular and fractional pieces, and those were all filed for.

Mr. Clark—By whom?

A.—By him, and others. You speak of applications—why, there is an application now on file, in this county, for nearly all the land in Districts Two and Three. Mullin has filed application for it.

Mr. Ferguson—John Mullin, of San Francisco, of the firm of Mullin & Hyde?

A.—Yes, sir; he thinks there is something wrong about the old applications, and he has filed for the land.

Mr. Kercheval—What is that; the swamp land?

A.—Yes, sir; I didn't know that until the other day, when I went to pay taxes; then I found that he had filed for them in another number than that on the books. It had been assessed for that number. He had filed for one thousand and thirty-five, one thousand and thirty-six, one thousand and thirty-seven, and so on up. All those locations take in the lands of settlers. But the great thing here in this county—we don't care so much for the locations, but we would like to know where that money all went to. The money is gone. In District Eighteen the money is all gone, and there has been an immense amount paid in there. That district is in Yolo County.

Mr. Clark—Suppose a person should go to the Controller's office here, and find out the amount of money that should have been paid into the Treasury of Yolo County?

A.—The Register of the Land Office will show that.

Q.—Then take that statement and go to the county seat of Yolo County, and find if the amount as represented on the County Treasurer's books corresponded to that amount. Then take the two and come here to the State Treasurer's office. That would offer a clew at once—taking this district as a specimen of the districts generally wouldn't it?

A.—Yes, sir. First, you would want to get each application, and figure out each one. The trouble is, the Register does not keep his book by districts. It is not "Swamp Land District Number Eighteen, credited with cash, so much;" but it is "Location One, or Two, or Three." Each location is credited with its payments in the order in which they are

made. In this county there are, say, twenty-seven districts, and the numbers of the applications run consecutively, without regard to the district number.

Q.—Are you acquainted with the handwriting of Colonel Mauldin?

A.—Yes, sir.

Q.—Were these three hundred and eighty applications which were made by Colonel Mauldin at one time, of which you have spoken, in his handwriting?

A.—No, sir; I don't think there was more than a very small percentage of them made in his handwriting; there might have been some of them that were.

Q.—Do you know of your own knowledge in whose handwriting the whole, or any portion of them, were made?

A.—Yes, sir; part of them are in mine; part of them, I think, in Mr. Estell's—Alf. Estell's; and part of them, I think, in Mr. Twitchell's handwriting. He is in the Land Office now, and was then. Part of them, I think, were in Beaumont's.

Q.—Mr. Johnson, what names did you use in making those applications?

A.—We didn't put in any names. If you had a blank application here I could show you what we put in. You can get a blank in the Land Office. Colonel Mauldin paid the clerks to look up the vacant land. Mr. Twitchell can tell you more about swamp land matters than I can, because he had charge of swamp land matters more particularly. A man named Logan—H. C. Logan; he is a stock broker in San Francisco—he filed for a terrible sight of school land, and sold it off. He told me he made one hundred thousand dollars out of it.

RECALLED.

Mr. Ferguson—By whom were those applications of Colonel Mauldin mostly filled up?

A.—Well, by the clerks there. I think that Estell and myself and Beaumont filled up the most of them. There is the way that it was done. [The witness fills out the blank application which is attached to his testimony, and marked "Exhibit E."] I had not been long in the office then. They gave me a list, and I copied the list that they gave me. I just put the name of the county in and the description of the land and the number of acres. That is all the clerks put in.

Q.—Do you know who signed those applications?

A.—I do not. He took them down to the Bay. The reason I say that is, because I saw an article in the San Francisco papers saying that they had an office up at the corner of Montgomery and some other street, where men were going up and signing away their interests in the lands for two dollars and fifty cents. The real man that got the lands was Asbury Harpending. The reason I know that is, when a man would write to the office about any of the land which was so applied for, and I would find that it had been filed on by Colonel Mauldin, they would say, "See Mauldin, and see what we can do." The deeds would be presented from the dummy here to Harpending, and from Harpending to Mauldin. That was the way they were done. Most of the swamp land locations that came out of the office were furnished by Twitchell. The reason I have for knowing about these matters is, like every one else, I wanted to make money. In looking over, I found some swamp land that was vacant, and I filed for it. He was quite angry

with me—Twitchell was. He said: "You had better let swamp land alone;" and after that I did. I afterwards filed for school land, but let swamp land severely alone. I don't know of my own knowledge, but I am informed, and I believe, that he has furnished all the information as to swamp land that went out of that office. I think he furnished all the information. I know he furnished all the information in regard to the land that was located over here in Yolo County; I know that from actual knowledge.

Mr. Kercheval—He has been connected with the Surveyor General's office for many years, has he not?

A.—Yes, sir.

Mr. Clark—Do you suppose it would be possible to reach any of these dummies and get hold of them?

A.—Oh, yes, sir; I suppose so—some of them. I know some in the city here. I know some in the city that have laughed at having signed over their interest in the land for a dollar or two dollars. I know one that came up and notified the office that he was going to keep it himself, and did keep it. I know of some more. Mr. P. H. Russell can tell you something about dummies. W. R. Cantrell, Police Judge of this city, was one of the dummies. He was the man that kept hold of them; Mr. Porter, in the Capital Savings Bank—Mr. Mauldin used his name.

Q.—Was that land approved to Mr. Mauldin?

A.—Yes, sir. The man by whom the application was signed, is recognized as the man that has got the land. He is recognized as the owner.

Mr. Clark—Then, were these applications actually made in behalf of the persons whose names appeared on the applications, or were they made in behalf of the attorney, as represented by the papers?

A.—Well, the attorney was recognized in the office as the real owner. Herbert E. Hall, of Stockton, filed a number of applications for large bodies of swamp lands.

Mr. Ferguson—Were you in the Land Office when the sixteenth and thirty-sixth sections in Fresno County were applied for?

A.—I guess so.

Q.—Do you remember who applied for those?

A.—I think Logan and Chapman. Chapman applied for some, and after that Captain Mullins went through there and filed for some, and after he got through Logan thought he could find some, and then Mauldin brought in a terrible sight more. They kept sending in applications right along.

Q.—Did those persons who entered into the business largely, always send money accompanying their applications?

A.—No, sir.

Q.—Did Mr. Chapman send money?

A.—I think, that as a rule, Mr. Chapman did. I think they had a regular account kept with him, as he went along. I think that Chapman paid. He was a man that looked after small matters like that, and always was particular to comply strictly with the law, as he went along.

Q.—Do you know how long it was before they paid for these lands in Sacramento County? Do you know whether or not they are paid for yet?

A.—As a general thing those that Twitchell gave to Cary he paid for right off. Estell was the man that appears most of the time as applying

for swamp land, and he would inform the San Francisco men that he had it; and he gave some of it to Mauldin. I filed for some land on Sherman Island, and Mauldin sold it for me. On Sherman Island the contract for the work of reclamation was let by J. M. Upham, the President of District Number Fifty-four, to A. J. Upham, his brother. In District Number Fifty, A. J. Bigelow was President, and they let the contract to William H. Patterson, of San Francisco. I was then Swamp Land Clerk, and the papers passed through my hands. There has been on District Number Fifty-four a great deal more money expended than is generally known of. There was the case where application was made for tide lands in San Diego County. When I was in the office Major Beaumont went East, and while he was gone East, I had the management of his part of the work. A man—a lawyer—came there and wanted certain locations approved. They could not be approved, because they conflicted with the settlers' claims. They were not approved, and the men kept fooling around the office for a long time; and two or three days before General Bost went out of office, nearly his last official act, was to approve them. I have heard that there was a deed for that land that was put on record by a friend of the parties interested, before the application was approved. Mr. Bowers, I think, Assemblyman from San Diego County, can tell you all about it. I examined the matter, and became convinced that the applications were not all right, and refused to approve them. Horton is one of the men who knew about it, and Cleveland and others know all about the case. The law provides that school land locations shall not be approved until it has been listed over to the State, and the map has been on file for three months in the United States Land Office. The law so provides. There was the case of the Keystone Mine down here in Amador County. An application was made by one Henry Casey for lands in Amador County, and General Bost notified me to take up the papers and approve the application. It was about the only application that he ever did tell me to approve. They gave me the Register's certificate, and that showed that it had not been issued for three months. He said: "It is all right," and told me to approve the location, and I filled it out. It afterwards turned out that it was the Keystone Mine down here. A. H. Rose was the real party there, I understand, Casey merely acting as his agent, and he (Rose) went on to Washington to try and have the Commissioner approve the location; but the Commissioner finally decided against them, on the ground that it was mining land. I remember it because it was nearly the only case where General Bost asked me to approve an application.

Mr. Parker presented affidavits from thirteen settlers in Inyo County, which are annexed to this transcript, marked "Exhibit F."

"EXHIBIT E."

[Grant of the sixteenth and thirty-sixth sections.]

APPLICATION FOR LOCATION UNDER THE STATE.

Location Number ——. — Land District.

STATE OF CALIFORNIA, } ss.
County of ——. }To ROBERT GARDNER, *Surveyor General*:

—, being first duly sworn, deposes and says that he is — a citizen of the United States of America, and a resident of the State of California, of lawful age; that he desires to purchase from the State of California, under the provisions of Title Eight of the Political Code, the following described land in Mono County, State of California, to wit: south half of section sixteen, township twelve south, range twenty-four east, Mt. Diablo meridian, containing three hundred and twenty acres, according to the returns of United States Surveyor General; that he has not entered any portion of any sixteenth or thirty-sixth section, which, together with that now sought to be purchased, shall exceed three hundred and twenty acres, and that there is no occupation of said lands adverse to any he has. —

— for which he agrees to pay to the State of California one dollar and twenty-five cents per acre, in gold or silver coin of the United States, in the following manner, viz: twenty per cent of the purchase money, together with interest on the balance at the rate of ten per cent per annum, in advance, from the date of the approval of the location in the Surveyor General's office, within fifty days after said approval; and unless said payment is made within said fifty days, then the land above described shall revert to the State without suit, and any approval thereof shall be and become null and void; and the balance of principal bearing interest at the rate of ten per cent per annum in advance, within one year after the passage of any Act of the Legislature requiring such payment, or before, if he desires.

Subscribed and sworn to before me, this — day of —, eighteen hundred and seven —.

— —.

TESTIMONY OF JACKSON WILCOXON.

JACKSON WILCOXON called, sworn, and examined:

Mr. Finney—Have you any knowledge of the process of reclamation in Levee District No. Five?

Answer—Some, sir; some knowledge.

Question—Will you state to the committee the manner in which the reclamation was conducted?

A.—In what respect?

Q.—In respect to the contracts—the letting of the contracts particularly?

A.—Well, sir; it was, I think, in eighteen hundred and seventy-one, sometime that I was at Yuba City, making some opposition to their doings in that district. There had been some contracts let; I think I recollect of reading that some contracts had been let to Drew & Carroll.

Q.—Do you know—have you any method of knowing, or do you know, what amount of money was actually expended in District No. Five, in reclamation?

A.—I was in the office of the Fund Commissioners the other day, and I see that their books show five hundred and fourteen thousand dollars, I think it is; and there were some certificates.

Q.—And this was all paid out under the contract?

A.—That you can't prove by me. That was the amount of bonds issued for work done. The amount of bonds was five hundred and fourteen thousand dollars, and three or four certificates.

Q.—Can you state to the committee, from your own personal knowledge, how portions of the contracts were let?

A.—I cannot, sir.

Q.—Have you any knowledge of any association of men who combined for the purpose of taking contracts for reclamation in that district?

A.—I cannot say that I have, sir. I know that contracts were reported to be let to different parties—Drew & Carroll, Lee & Co., and others.

Q.—Have you any knowledge whether Lee & Co., or any other persons to whom contracts were originally let, ever sublet them to any other persons?

A.—Not of my own knowledge.

Q.—You have heard of their doing so?

A.—Yes, sir.

Q.—Have you any cause to suppose that those statements were well founded?

A.—I think so, sir.

Q.—Do you know whether these parties who are said to have sublet these contracts were parties who had any interest in the lands themselves?

A.—There were rumors to that effect, sir.

Q.—Those rumors would seem to indicate that there was a kind of contract and finance arrangement, wouldn't they?

A.—Yes, sir; it looked that way to me; it looked very suspicious, I thought.

Q.—Have you any means of knowing how the facts in that case can be gotten at, so that the committee can have exact information about it?

A.—Well, sir, I tried to find out that myself, and they would not tell me about it; but they told me circumstances. I learned that there was a contract let to a man by the name of Mahoney. I was coming down from Nicolaus one day, and I talked with some parties who were trying to get a contract under Mahoney, but he told me then that he didn't have any contract, but, perhaps, his brother, who was one of the Board of Supervisors, had one. Hodges is the man that was talking to me. He wanted to get a sub-contract.

Q.—Where does this Mahoney live?

A.—He was President of the Board of Supervisors of Sutter County at that time. There were two brothers of them—Dave and John.

Q.—It was reported that he had a contract?

A.—There was a contract on the books there with his name—John

Mahoney. I would just say here that, perhaps, the papers are here; they were a short time ago; a certified copy of that district—Number Five—certified under the hand of the Clerk of the Board of Supervisors.

Q.—In what office is that record here?

A.—Mr. D. Lyman and J. L. Wilbur procured them. Wilbur is in the city now. He can give you more information than any one else I know of. He has the papers, and if you can get those papers you can find out more from them than in any other way that I know of. His address is: J. L. Wilbur, Attorney at law, Yuba City. He is in the city now, and may have those papers with him. There was an application filed by Parks and others—Parks, Roberts, and others—on the eleventh day of March, eighteen hundred and seventy-one, by petition, and they organized that entire concern into one district; that District Number Five, it is certified here, into a district of one hundred and twenty-two thousand nine hundred and seventy-five and fifty-eight one hundredths acres. That is my recollection of it; it can easily be found out. That was on the eleventh of March that the petition for organizing the district was filed, and about the twenty-ninth of May it appears—and this is of record—that they came back with the petition again, and proposed a change in the boundaries of that district, or the organization of a new district.

Q.—Parks & Company did that?

A.—Yes, Parks & Company did that. Some of the small owners who had land in the district claimed that they would be injured as much as improved by the levee if it should be constructed, and thought that the thing was being done in the interest of the owners of the large tracts within the district proposed. Some of them kept dairies on their land, and it would not be much improved for their purposes if the levee was made. The levee district—the boundaries of it, were then changed, and it ran along here. [Showing on a map.]

Q.—And left out these small owners—left them out of the new boundaries of the district?

A.—Yes, sir. The range line between one and two intersects the river here, and they followed this segregation line around till they reached Butte Slough. Now they have certified here to the Reclamation Fund Commissioners that the district has never been changed from the beginning, but that there was still one hundred and twenty-two thousand acres in it. My land, with the exception of a fraction in section four, and a little more here [showing on the map], is all south of this levee here. This land was at first included in the assessment list of the Fund Commissioners; but they struck from the list all the land south of the levee. I had no confidence in their theory of reclamation, and would not give five dollars and fourteen cents for all the work they done; and I told the General I would as lief throw my money into the Pacific Ocean as to give it for that reclamation.

Mr. Hammitt—Is there any lands within that district which you, in your judgment, would regard as not swamp and overflowed land?

A.—I don't know anything about it, sir, outside of my own surveys. Of my own knowledge, I know nothing as regards that.

Q.—In passing over those lands there, did you ever pass over any lands that you would recognize as not being swamp and overflowed land?

A.—I don't know as I would.

Mr. Kercheval—Do you think, that for a majority of the years—say three out of five years—that there is any land in that district that you could raise a crop of wheat, barley, corn, or anything of that kind upon, without levees, ditches, or drains, or any means of reclamation whatever, on over half of any forty-acre lot there? That is, what is designated in the swamp land law?

A.—Well, sir, it is owing to what kind of a crop you want to raise. Do you mean, if it was put in at the usual season of the year, or any season?

Q.—Any season, so that it matures?

A.—I cannot say that I could tell of my own knowledge; but then a man has notions.

Q.—Are you a farmer?

A.—A farmer and stock raiser and dairyman, sir. I think there is a good deal of that land where some kind of crops may be put in; for instance, late in the Summer. There are portions where a man could raise a crop of corn on it, if put in even in June.

Q.—The swamp land law is, that when twenty acres out of any forty-acre tract will raise a crop of cereals for a majority of a series of years, without levees, ditches, or drains, it is not to be considered swamp and overflowed lands. Do you think there is any of that land which, under that law, would not be considered swamp and overflowed land?

A.—Well, sir, it would be a pretty hard question to answer.

Mr. Ferguson—You have land in this district, you say?

A.—Yes, sir.

Q.—Do you think there has been any money that has been lavishly expended there? Do you think the money has been expended judiciously?

A.—Well, I think they could have got the work done for a great deal less than it was done at.

Q.—How much less?

A.—Half, or less than half. Now, at the organization of that district they paid for the work in bonds. These contracts were let to a very few persons at thirty cents per cubic yard, nearly all of it, and some for fifty cents per cubic yard. The idea was to get the bids high enough, so they could sell the bonds and sub-contract for the work and make money out of it.

Q.—How much more do you think it would cost to finish this work?

A.—I don't think that five millions of dollars would accomplish their object on their present plan.

Mr. Ferguson—What is the system that is being pursued in reclaiming this land?

A.—Well, there is a levee built on or along the Sacramento River, in some places twenty feet high. Now this place here [showing on the map] they claimed was reclaimed; but I was down there one day looking after some stock, and I certainly did not think it was reclaimed. You see, when they dammed that water up there [showing] it was all forced into the Sacramento River.

[The witness makes further explanations upon the map.]

Q.—Do you consider the doctrine of those contractors pretty good doctrine?

A.—Good for the fellows who can make it win.

Q.—What is your idea as to the necessities of that district now—what they need now? As it now stands what do you think the best means of

relieving the settlers along the river, and still aiding the swamp land owners in that district—the actual owners?

A.—If you would cancel the bonds you would do them the greatest favor that ever could be done.

Q.—Then you are not particularly prejudiced in favor of their system?

A.—No, sir; I haven't a particle of faith in it.

Mr. Finney—Have you any idea of the cost of that levee?

A.—If you go to the Reclamation Fund Commissioners they will tell you.

Q.—What has been the actual cost of the levee which has been constructed here; what do you think it is really worth?

A.—A man could put that levee up at about a bit a yard, and make money out of it.

Mr. Ferguson—How much levee have they built?

A.—About fourteen miles.

Q.—That has cost five hundred and fourteen thousand dollars?

A.—Yes, sir; according to what I saw there in the office of the Fund Commissioners.

Q.—What is the height of this levee here? [Showing.]

A.—Six, seven, or eight feet; and when you come across here [showing] it looks to be from fifteen to twenty feet high.

Q.—What do you estimate that worth where it is fifteen feet high?

A.—I believe a man could build the whole of it—because it is all good ground—for twelve and a half cents a yard.

Q.—What did the contractors get for that?

A.—Thirty and fifty cents. Where earth had to be hauled it was fifty cents. I think there were some contracts along in eighteen hundred and seventy-one bid off at twenty-five cents a yard.

Q.—You mean by the cubic yard?

A.—Yes, sir; by the cubic yard.

Mr. Kercheval—I will give you what I got mine done for, and what it cost. I put up a mile and a half of levee, which on the average is about five feet. It cost me about eight cents a cubic yard; it was done by China work. I got twelve and a half cents a yard.

Mr. Finney—Do you know of Drew & Carroll's contract having been sublet?

A.—Only from hearsay. I will state this fact to the committee—that Drew & Carroll threw up their contracts, and turned them over to Mr. Parks.

Q.—Did you ever hear any rumor that their contracts were not really let to them, but that they were only acting under the orders of Parks & Co.?

A.—I think I have heard rumors to that effect. I have heard as much hinted, but I don't know anything about it of my own knowledge.

NINTH MEETING.

MONDAY, March 2d, 1874—7 o'clock P. M.

Present—Ferguson, Chairman, and Messrs. Lindsey, Finney, Parker, and Kercheval.

TESTIMONY OF EDWARD TWITCHELL.

EDWARD TWITCHELL, called, sworn, and examined:

Mr. Ferguson—In locating swamp lands in this State you became, of course, conversant with a great many of them; and it has been charged, from time to time, in the public press, that during the past few years the Surveyor General, or those in his office, have known of a great many cases where lands have been taken up as swamp lands, which were not really swamp lands. Have you any knowledge of anything of that kind?

Answer—I think there were some surveys three or four years ago, approved by the Surveyor General, where the lands had not been segregated, either by the State or the United States, as swamp lands. I think there were a few cases of that kind in some of the mountain valleys.

Question—In what portion of the State were those lands situated?

A.—I think they were either in Sierra or Plumas County. At that time I was not connected with the Surveyor General's office; I then had charge of the Title Department of the State Land Office—but I think there were cases of that kind.

Q.—In receiving applications for land, is it not customary in your office—the Surveyor General's office—to demand and receive a fee for receiving the applications, or is it merely optional with the officers?

A.—Are you referring to swamp lands?

Q.—Any kind of lands.

A.—For swamp lands no applications are made to the Surveyor General's office; they are made to the County Surveyor, and are merely sent to the Surveyor General's office for approval. There is no fee fixed by law for filing a certificate for swamp land. The County Surveyor, of course, demands his fees for making the survey. There is no fee fixed by law for filing a certificate for swamp land, in the Surveyor General's office.

Mr. Parker—Is that the full statement of the case, in the matter of swamp lands? Is it simply a personal matter? What are you guided by in making your charges?

A.—When a survey comes from the County Surveyor to the Surveyor General's office, the clerks first look to see whether the land described in the survey is vacant or not, and whether it has been sold by the State, and also to ascertain whether or not it is swamp land—whether it has been segregated as swamp land by the State, or by the United States to the State. In the year eighteen hundred and sixty-one, an Act was passed to provide for the segregation of swamp land claimed by the State. That segregation was made under the direction of the State Board of Swamp Land Commissioners that was then in existence. Instructions were sent out by that Board—the directions as to the manner of making the survey were prepared by the Surveyor General, but were sent

out by the Board. Each County Surveyor was required to make segregation of the swamp and overflowed lands in his county, and report to the Surveyor General. He was required to take testimony as to each forty-acre tract, according to the form prescribed by the Commissioner of the Land Office at Washington. Segregation was made in the most of the valley counties here where there are swamp lands—in Sacramento, Yolo, Sutter, Solano, San Joaquin, and Colusa—in nearly all of these counties up around the San Joaquin Valley. Settlers who went out with the surveys reported, I am told, and I understood from the Board, that the segregation was satisfactory as made by the United States, and there was no occasion for making a change; therefore there was no segregation made by the State farther south than San Joaquin County. The State accepted the segregations as established by the United States. At the time of the segregation in eighteen hundred and sixty-one, the State had no official knowledge of the existence of any swamp lands in the mountain valleys; the Government surveys had not been extended over the mountains, except in a few cases. The State knew of no swamp lands there, and the United States had made no segregation of swamp land there. All swamp lands that they have any official knowledge of now over the mountains or in these valleys are swamp lands, shown to be such by the United States surveys.

Q.—But suppose the land isn't swamp land?

A.—Well, a great many of the surveys have been sent back within the last two and a half years; since I have been attending to that department.

Q.—The applications have been sent back?

A.—No, the surveys; where the surveys have been made by the surveyors, and sent to our office for approval.

Mr. Finney—They have been rejected?

A.—They have been rejected, except in a great many cases, where parties have given notice of intention to contest the matter, claiming that they are able to prove that the segregations have been properly made. In such cases they have been kept there in the office, awaiting the action of the United States authorities.

Mr. Ferguson—A great many applications are now on file in your office, are they not?

A.—I made up a complete statement, under the instructions of Mr. Gardner, that will show all the facts.

Q.—Do you know whether there are any applications that have lain in the office longer than two years?

A.—Swamp land applications?

Q.—Yes, sir.

A.—I presume there are quite a number.

Q.—How far back do some of those applications date?

A.—There are some that have been lying there for—well, since long before I had anything to do with the department.

Q.—Applications for those lands that were originally segregated by the United States?

A.—Yes, sir. The entire amount of land that was patented to the Tulare Canal Grant, has been reapplied for and resurveyed, and the surveys are on file in the office there. Of course they can't be approved, because there is an outstanding title. These parties who have made the new applications for the land, hold that the patent was illegally obtained.

Q.—Are there none over which there is no contest lying there that way?

A.—I don't think that there are any that have been lying there any very great length of time; there may be one or two. It has been the custom, every once in awhile, to go over the surveys, and see how they stood. There was a considerable amount of land that was segregated by the State that the United States surveys declared to be high land. Mr. Gardner adopted the rule, that he would not approve any of those surveys until the question as to the character of the land was settled, although it was accepted by the State. There are surveys that have been lying there for a year or more. Occasionally, this land was listed over to the State. When it is listed over to the State by the authorities at Washington, that removes the conflict, and it can then be approved. I don't know of any surveys that have been in a condition to be approved, that have been there any very great length of time.

Q.—What was the rule before General Gardner went in there?

A.—I cannot state so well about that, because I hadn't charge of the swamp land department then. I was boss deputy of the office, but I had at that time exclusive charge of the title department, and had little to do with the locations or surveys. My branch of the business would not be the one where the most information about those things would be likely to be obtained from; but I think there were surveys that remained a very long time without being approved.

Q.—The swamp lands are obtained in regular divisions, are they not?

A.—The swamp lands are sometimes very irregular in form. For instance, take it in these large bodies where it is all cut up by navigable sloughs.

Mr. Finney—How small is the smallest subdivision which the law allows?

A.—A person may take up a little tract of five acres, or any other amount.

Mr. Lindsey—I think there is a large number of subdivisions in my district?

A.—Just about one hundred.

Mr. Ferguson—Who are the parties applying for them?

A.—I think they are nearly all in the names of Simons and two more. The way that occurred was this: You are aware, Mr. Lindsey, that in those counties the United States sold the lands there according to the irregular segregation lines; but Houghton adopted the State rule of approving surveys according to the lines of legal subdivision. The result was, there were some corners and fractional pieces which were left out. If the Surveyor General had required the County Surveyors to make their surveys conform to the United States segregation lines the land would all have been included in their surveys. Houghton was very well aware that the United States was selling according to that irregular line. If the State had conformed to the same line there would have been no conflict; but they did not; and when they came to make out surveys the majority would either run over upon small corners of United States land, or leave small corners. Now parties, in order to secure all these little tracts, which contain from twelve to twenty acres, most of them, have been compelled to make a great number of surveys. The first Act the State passed in relation to swamp and overflowed lands was in eighteen hundred and fifty-five, and each purchaser was, by that Act, limited to three hundred and sixty acres, which was sold on credit, the State requiring no interest at all. It was a very loose and imperfect

law. The title was given by the Secretary of State. The law required the County Surveyor to make returns to the Surveyor General quarterly, and yet it required a party to make payment for the land within thirty days from the time of the survey. The result was, in some cases, a party would go to the Secretary of State, who would give him a title; and a few days afterwards the application would come into the Surveyor General's office and be rejected. After that law was repealed they passed the Act of eighteen hundred and fifty-eight, requiring full payment for the lands applied for, which was in force for one year. In eighteen hundred and fifty-nine they changed the law, and required a payment of twenty per cent, and increased the number of acres which a purchaser could take to six hundred and forty acres.

Mr. Finney—What was the outside influence that got the law changed—that got that bill through, allowing the payment of twenty per cent and increasing the number of acres to six hundred and forty?

A.—I do not recollect. I know it was the year eighteen hundred and fifty-nine. It was a long while ago. I was connected with the Surveyor General's office at that time. The general idea was that the land was used for stock at that time. They had made no moves towards reclamation, and the lands then purchased were only the lands along the margins of the rivers. These vast tracts in the interior, that have since been taken up, nobody paid any attention to them then. Then the law was changed at various times—slight changes made, and, as you know, in eighteen hundred and sixty-eight what is commonly known as Green's bill was passed; that took off all restrictions. I think a great many had a finger in getting up that bill—parties interested in the matter.

Q.—In whose interest was that Green bill run through—in the interest of swamp land men, generally?

A.—In the interest of parties who wanted to get large tracts. They claimed that under these various laws that provided for the sale of swamp lands, the available and desirable land had all been secured, and that nothing was left but these deep tules that nobody could do anything with, and which had been in the market for ten years. They said that if the law passed—if Green's bill passed—that these lands might be bought by capitalists, if they could get them in large quantities, who would institute some process of reclamation which would make them profitable.

Mr. Ferguson—You know the principal prominent swamp land speculators in the State?

A.—I know the large owners; I don't know as—what do you mean by speculators?

Q.—The large owners.

A.—Yes, sir.

Q.—Have they any connection with the Surveyor General's office, other than any private citizen may have?

A.—Not that I am aware of.

Q.—Are there any officers or clerks in that department of the State service who are interested in these lands in any way?

A.—I am interested; I own swamp land.

Q.—Have you any interest in common with these large owners?

A.—I have got a farm on Sherman Island. I have had it for fourteen years.

Q.—In your department, do the school lands come under your notice?

A.—No, sir; swamp land is my special department, although I have some little to do with school lands. For instance, where there are con-

tests, and the cases are transferred to the Courts, General Gardner generally gives me the papers to make out the transfer; but in the management of locations, etc., I have nothing to do. Mr. Redding attends to that department.

Mr. Lindsey—Are there a very large number of applications for school lands on hand now that are not in contest?

A.—I don't know; I presume there are a good many. You mean where there are not conflicting applications, don't you?

Q.—Yes, sir.

A.—There are a great many that are suspended for various causes. The Surveyor General has to obtain from the Register of the local United States Land Office, a certificate to the effect that there is no adverse preëmption claim to the land applied for; and then, he must obtain a certificate as to the condition of the land before he can approve the location.

Mr. Parker—What was the particular informality in the application of one Earle, in Inyo County?

A.—The State had no knowledge of swamp land there; the State never claimed any, and the United States didn't list any over to her.

Q.—In that report that you submitted to the House, the other day, why did you make distinction between certain of his applications and others in that section?

A.—It was mentioned in connection with that that he had sent in a number of affidavits, some sixteen or eighteen of them, with the surveys. That is an irregular procedure. The application and affidavits should be filed with the County Surveyor; that is the proper place. Sometimes they have sent copies up to the Surveyor General's office. The County Surveyor is the officer that receives the application, and keeps it. When he makes a survey he sends a certified copy of the affidavit with the survey to the Surveyor General's office. They had a new surveyor up there that knew very little about that business; he sent in these copies of the applications that he received; he said he couldn't make out the survey because he didn't know where to run the lines. The United States plats didn't show any swamp land there, and they were trying to get it awarded to the State as swamp land.

Mr. Ferguson—A portion of these affidavits are reported to us as being affidavits, and the balance of them, you say, ought not to come into the office.

A.—There were three or four certificates sent in, and in addition to those were these same sixteen or eighteen copies of affidavits. The surveyor is required to send up a certificate. These affidavits, as I have said, have no business in our office, unless accompanied by the field notes. This was an irregular proceeding—sending in these affidavits with the applications.

Q.—Well, suppose they had been regular, and you had no knowledge of the existence of swamp land there?

A.—The parties would make application to the United States Surveyor General. The law requires the United States Surveyor General to fix a time for taking testimony to establish the swampy character of this land. He would publish a notice, that at a certain day he would take testimony as to the character of certain sections of land. Then he would take the testimony and submit it to the department at Washington, and they would either confirm or reject it.

Mr. Kercheval—You are a civil engineer by profession, are you not?

A.—I am a surveyor; that is my business. I have done a good deal of work as United States Deputy Surveyor in former times.

Q.—You understand the mode of making these surveys—you know what would be a proper survey?

A.—Yes, sir.

Q.—If you were a County Surveyor, and a man came to your office to have a survey made of a certain tract of land, what would be your duty in that case? What would be the course you would pursue?

A.—Well, I would probably go and survey it, unless there had been a previous legal survey that I was willing to adopt.

Q.—Suppose there had been no survey made?

A.—If the lines of the tract had not been established by any legal survey on the field, it would be my duty to go and run out the lines.

Q.—Suppose there is a large district here—say District Number Eighteen, across the river; there have been surveys made all along there, on all sides of the district—what course would you take if you were asked to make a survey of the interior of that district, and there had been no lines run by the State or by the United States?

A.—I should first tell the party that it would be a very expensive survey.

Q.—Is it your opinion, as a surveyor, that by just laying a piece of tissue paper over the map which contained a survey of all the lands around this tract, and making a copy of the boundary lines around the tract in that way—do you think that would be a legal survey by a County Surveyor?

A.—He would have to get the surveys of all the tracts around this one to be surveyed, in order to get a continuous line around the tract.

Q.—Could he do it right in his office that way?

A.—He could not, without all the field notes of the surveys. It would be impossible to do it without the field notes.

TESTIMONY OF S. J. STABLER.

S. J. STABLER, called, sworn, and examined:

Mr. Ferguson—This committee is appointed by the Legislature, Mr. Stabler, to inquire into the alleged frauds in swamp land matters in this State, in the reclamation, etc., of such lands. You have been summoned to give evidence in regard to certain matters in relation to Swamp Land District Number Five. You are acquainted in that district, are you not, sir?

Answer—Yes, sir.

Question—Have you land there?

A.—Yes, sir.

Mr. Finney—That is Reclamation District Number Five?

A.—Yes, sir.

Q.—How long has that district been in course of reclamation? How long has the district been organized?

A.—I think two years and a half; I think some time in eighteen hundred and seventy-one.

Q.—Who were the leading parties in the organization of that district?

A.—Well, the petition was signed by Parker, Middleton, Roberts, and some others, and myself. I don't know, really, who else, but enough others to make a majority of the acres in the district. I recollect signing a petition for the purpose of organizing the district in eighteen hundred and seventy-one, in the Spring; and I also recollect having a proviso added to it myself. I went East in April, and the order creating the district was made during my absence.

Q.—At the time that district was organized, was there any promise made as to the cost, etc.—any agreement made between the settlers and the Fund Commissioners as to their salaries, etc.?

A.—I only know what has been stated to me about that. I have an active business, which engages all my time, and I have never taken much interest in the district, except just to notice how things were going on. Parks, Roberts, and Middleton had the largest interest. They were over there attending to the affairs, and I generally indorsed what was done.

Q.—You know nothing, then, of what has been done in that district, particularly?

A.—In what respect?

Q.—As to organization of it, the cost, etc.?

A.—Well, I was one of those who signed the first petition embracing a majority in interest; and then there was another petition before the Board of Supervisors. It was to perfect the reclamation in some respects; or, it was to adopt a mode of reclamation. The area was larger at the start; it was afterwards reduced.

Q.—Do you know anything about the making or letting of the contracts for making the levees along the rivers, for reclamation purposes; it was to be let by contract, I believe, under the law?

A.—No, sir; I know nothing, except that it was let like other contracts. It was let by sections; and some contracts were let, and then sublet. That is my impression, but I never took much notice of any of the matters going on there.

Q.—Did you notice the prices at which the lettings were made per cubic yard?

A.—I think they were about double the cash price. Now, I am much more familiar with the embankment in District Number One, and I think it was nearly double the cash price in that county.

Mr. Ferguson—Did the parties do the work themselves, or sublet it?

A.—Most of it they did themselves.

Q.—That is, in District Number Five?

A.—Yes, sir. Now, even of that my knowledge is very casual; very little of it is positive. I know very little about it, although I was an owner.

Q.—You took the representations of those gentlemen more immediately active in it?

A.—Yes, sir. Mr. Parks spent nearly all his time there.

Q.—Have you any idea how much per acre has been expended on that land—how much the assessments have been?

A.—Well, my assessment on six thousand four hundred or six thousand five hundred acres has been about one thousand four hundred dollars.

Mr. Lindsey—Do you know what the acreage is in that district?

A.—About one hundred and twenty-two thousand, I think they call it—about one hundred and twenty thousand to one hundred and twenty-five thousand.

Q.—Those certificates which sold at sixty or sixty-five cents—that has all been bonded?

A.—That has all been bonded, yes, sir.

Q.—Well, now do you know who owns these bonds?

A.—I do not.

Q.—Are they owned by the land owners?

A.—I think not—oh, I know who own a few; but the majority of them, I think, are probably held in San Francisco. I don't know about it of my own knowledge. The engineer, Reece, kept his. I only held one warrant, and I sold it to Judge Craddock.

Q.—Do you know the amount of the bonds that are out now?

A.—By common repute—what the newspapers used to say about it. I think they estimated it at about five hundred and seventeen thousand dollars, and that is nearly all funded.

Mr. Ferguson—Is the work of reclamation nearly finished?

A.—Very nearly, yes, sir.

Q.—Satisfactorily so?

A.—Well, the upper end is almost completed. The Sacramento side is levied by private citizens generally, and the other side down at the lower end is high land and does not need any levees.

Q.—Is it the opinion of the parties interested in those lands that the work has been done cheaply?

A.—Yes, sir; just as cheaply as it could have been done under the circumstances. I felt enough interest myself to keep a little track of it, to see about how it ran, and I know what the cash bids were; they were somewhere in the neighborhood of a bit; where it is nice, plain sailing, ten cents and less; then up to eighteen, and where it is bad ground a little more.

Mr. Lindsey—What will it cost to replace that dam that went out at the upper end?

A.—Pennington, the County Surveyor, estimates that it will cost ten thousand dollars or eleven thousand dollars. I suppose it would be nearly double that, say, may be, twenty thousand dollars. They thought they had it secure, but they hadn't.

Mr. Ferguson—The people of the district are fully satisfied with the work and the cost of the work—satisfied that everything has been conducted squarely and honestly?

A.—No, not by any means. All the large holders—I never heard a word from them. They have all conferred together, and several times where a party has been afraid to take a contract, they have guaranteed the payment for the work done. Roberts, Parks, and several other large owners are perfectly satisfied; but there are very many persons that are not, and they have been holding meetings, and had a fellow up there putting articles into the papers, for two or three months. They are perfectly clamorous. If you are referring to the main large holders, it is done with the entire approval of all of them, so far as I know.

Q.—Have any of these large owners been interested in the contract?

A.—Not that I know of.

Q.—Mr. Parks may be?

A.—Well, he may be; but he is not that I know of; I don't think his name ever appears; it is barely possible that he may have an interest in some of the contracts; I don't think he has, though.

Q.—What seems to be the nature of the objections raised by these small owners?

A.—Well, they are mostly dairymen who supply the Marysville market with butter, and in some instances milk, and they don't want to pay the cost of reclamation; they had rather have the land as it is; I can't imagine anything else. It enhances the value of the land four hundred or five hundred per cent. District Seventy is a perfect success, and some of these same parties own some land in it. When the work of reclamation commenced the land was worth three dollars an acre, and they paid about six dollars and a half per acre for reclamation, and the land is now sold for twenty dollars, and twenty-three dollars, and twenty-four dollars an acre; and some that I own there I would not take less than thirty dollars an acre for. I can net one hundred per cent more from the land than I could have done otherwise. These meetings have been held there, and I have read the resolutions that they have passed, and then could not tell what they are after. They say that a lot of land grabbers are heaping up a debt upon them that they cannot pay, and that it will bankrupt the county. Some of them are opposed to it because it backs water on their land, they say. I can't satisfy myself that I know what is the cause of the complaints.

Mr. Finney—Then if you are allowed to speculate about it yourself it looks as though they didn't want to pay the cost of reclamation, but would rather have the land in its original state?

A.—I can't think of anything else. In this District Seventy some parties contest the tax now. I have known of their selling land there for twenty dollars an acre, which before the reclamation was worth about three dollars, and still they haven't paid that tax. They sold it and gave a bond that the tax shall not come against the grantee; they would either defeat it or pay the tax themselves. There is some land there that would not feed a sheep until the water was kept off; and now they can pasture stock on it, and put it in hay some years. Of course the owners whose land is comparatively high are not assessed for more than one third or one fourth as much as those who hold the deep tule lands.

Mr. Ferguson—The assessment is not equal, then?

A.—Certainly not. Mr. Chapman took up forty-one thousand acres there. He sold ten thousand to Roberts, and still holds the rest. Those are good thrifty farmers, but I cannot see why they are so clamorous. They seem to have the idea that they need not pay the tax.

Mr. Lindsey—Do I understand you to say that these Fund Commissioners levy the assessments upon the lands of different parties according to the benefit they receive?

A.—The law provides that the Commissioners shall meet together and assess the benefits to accrue to each forty-acre tract, and they assess to each lot the amount which they think it is benefited. That assessment is intended to stand; but after that is done, any one can appeal to the County Judge, and he will equalize the assessments.

Mr. Ferguson—Is the State Board of Reclamation Fund Commissioners, in your opinion, any benefit to the district?

A.—That is a pretty hard question. When they were constituted, the inference was that all the districts would go and have their debts funded. These Commissioners were to get salaries, to be paid by assessments upon the districts. We came right in—District Number Five, of Sutter County—but there was a suit pending in regard to high lands and swamp lands which would affect the swamp land districts, and no one else would come in until that was decided. It was at first

decided adversely to the swamp land districts, but a new hearing was granted, and three weeks ago it was decided in favor of the swamp land districts. So no other districts have come in, and we have been compelled to pay twenty-thousand dollars—I understood it was—we had to pay their whole expenses. I believe there was an understanding that when other districts should come in we should get back all except our share of the money, but they have never come in, and we have paid it all.

Mr. Finney—That is the expenses of the office?

A.—The expenses of the office and their salaries.

Mr. Lindsey—Could not this whole thing be managed by the Board of Supervisors?

A.—Well, that is what they propose to do now. Yes, sir, I think they could have done it very well; but the bill was to make the Governor, Secretary of State, and Controller ex officio Commissioners, but there was so much talk about it they claimed that Bost had acted in bad faith, and they wanted to take it out of the hands of State officers, so they appointed these gentlemen. We didn't anticipate that our expenses would be over two thousand five hundred dollars a year, and had no supposition that we were to be mulcted in such a sum as we have paid in; and I think that we had some sort of an understanding with the Commissioners that two thousand five hundred dollars a year should be our share.

Mr. Kercheval—What is the character of the land there? Is the earth they have used pretty hard to remove or easy?

A.—It is not hard, but two years ago they had some on the river there, there was considerable underbrush, but I should say it was easily removed.

Q.—What is the character of the work—how large a levee generally? What is the average height and the bases? What is the slope, etc.?

A.—Well, about where it went away, that was the heaviest work. I suppose for half a mile it was fourteen or fifteen feet base, and probably averaged twenty feet high. The slope on the water side was about four feet to one; on the other side it was just as little as could be had. They had the right slope on the right side, but the other should have been about two feet to one.

TESTIMONY OF J. L. WILBUR.

J. L. WILBUR, called, sworn, and examined:

Mr. Ferguson—Do you know anything about Swamp Land Reclamation District Number Five, in Sutter County.

Answer.—Yes, sir; I know considerable about it.

Question.—Do you know anything about the reclamation work in that district?

A.—Yes, sir.

Q.—Do you know anything about what the cost of that work has been?

A.—From the books of the Funding Commissioners it appears that there has been, I think, upwards of five hundred and ten thousand dollars in bonds issued—warrants issued against the district, and then con-

verted into five hundred dollar bonds. The precise amount, however, is a matter of record.

Mr. Finney—What we want to find out is how the contracts were let and at what prices the contracts were let for making the reclamation?

A.—I don't know but I will have to answer a little aside before you can see the relevancy in what I have to say in answer. There has been no contracts that I can find any record of that has been let since eighteen hundred and seventy-one. The price of the work in the contracts that were let varied from twenty to thirty, forty and fifty cents per cubic yard.

Q.—As high as fifty cents per cubic yard?

A.—Yes, sir.

Mr. Ferguson—Have you any lands in the district?

A.—I have eighty acres which I have applied for as State College Land, and I had a quarter section which I have sold my brother, and if he wants to take it back I shall do so. That is all the land I own in the district. I have owned considerable there, but have sold it.

Q.—In these contracts for building this levee, what was the method pursued?

A.—Bids were advertised for—well, I don't wish to escape any questions, but it is too late to enter into an investigation of District Number Five. I have the record here. I will say in a word, however, that bids were advertised for in eighteen hundred and seventy-one, and contracts let to A, B, C, D, E, F, etc., until certain subdivisions were let, and all that remained was let to Drew & Carroll, who, I think, never did any work at all. Perhaps they did some, but not much.

Q.—Did they sublet their contract?

A.—It is supposed, I don't know with how much truth, that Parks took all that Drew & Carroll were to take, and sublet it to Chinamen and other parties. [Reads the contract of Drew & Carroll, to be found on page — of this transcript.] Drew & Carroll took the *sobranite*; or all that was left after the small subdivisions were taken.

Mr. Lindsey—Have you any knowledge of what the work was taken for under these contracts by the Chinamen, or whoever did take it subsequently?

A.—No, sir; there is but very little of record that shows. There is a certificate, from the engineer, with every claim that is put in—they have two or three engineers—giving the number of cubic yards of levee which have been constructed, and for which the payment is due to W. H. Parks.

Mr. Finney—That appears on the record?

A.—Yes, sir.

Q.—It is this Parks—

A.—It is this Parks that went to Washington for five thousand dollars, in eighteen hundred and seventy-one—a patient and patriotic lawyer. He ran for Secretary of State in eighteen hundred and sixty-seven.

Mr. Ferguson—Can you give us any light upon the charges of fraud that have been made in regard to that district—in regard to the work that has been done on that district?

A.—The district was formed on the eleventh day of March, eighteen hundred and seventy-one. A petition was filed on the last day of the week, and the last day of the session of the Board of Supervisors, and it was the last thing they attended to. I don't know whether the petition was filed that day or not; but it appears so inferentially from a

little subsequent record. About the twenty-ninth day of December, eighteen hundred and seventy-one, the Court House of the county was burned, and the petition, perhaps, was burned in it; and if there were any bonds given for the execution of the contracts they were probably burned. The law under which District Number Five was formed is a special law for Sutter County, which authorizes the majority of acres to form a district and control it. That was done.

Mr. Finney—You are well acquainted with the whole district and all the affairs of District Number Five?

A.—Tolerable well acquainted.

Q.—Is there much dry land—have you been over it and know what is the character of the land, whether it is swamp land or dry?

A.—Within the exterior boundaries of the district there is probably thirty thousand acres or more of arable land.

Q.—That is, dry land?

A.—Yes, sir.

Mr. Lindsey—That would be equivalent to about one third of the district?

A.—Yes, sir. On the twenty-ninth of May, eighteen hundred and seventy-one, there was presented a petition to the Board of Supervisors, on behalf of Parks, Middleton, Roberts, and a few others, constituting just a bare majority of swamp land acres in the territory of swamp land on the river. I always regarded it as a farce, and so did every attorney that I ever heard say anything about it. There now cannot be over six thousand or seven thousand—possibly ten thousand acres—including a portion of the Sutter grant, north and west of Nicolaus. North and west of Nicolaus there is a territory that was the Sutter grant. The field notes of the district survey, as certified to down here in the Surveyor General's office, allows the district to go no further north than the north line of township fifteen, one east. In practice and in fact, if there is any district, it goes seven miles north of that—that is, to the north line of section thirty-six, in township seventeen, one west. You will see, however, on the township map, before there had been any mature ideas of reclamation—and the record shows that the engineer contemplated going further north—he has traced out on the official map the boundaries up to the north line of the county. Here [showing on the map] it rises to the line of Colusa County. This is a lithographic humbug map made in New York, and was gotten up for the purpose of catching gudgeons. Here [showing] is a district you could run a steamboat over. This [showing] is as good land as there is in the State. It raises upwards of fifty bushels of wheat to the acre; and here it says, on the map, "leveeing completed." Here is District Number Seventy; you can run a steamboat all over that; and it is marked "reclamation completed."

Mr. Ferguson—Of course the facts in regard to these lands in the district where they are situated, can be easily obtained. What we want to get at is, whether there have been any frauds perpetrated in the reclamation of this land; and if so, who the parties are that have committed them.

A.—Well, I don't want to treat the matter with levity, but it is almost like the classical question, "Who struck Billy Patterson?" I can only give you the facts. I have gone to the Clerk and asked him if there were any bonds on file for the contractors. The law says there shall be bonds to double the amount of their contracts, and the contracts shall be completed within four months. The contract was let, so far as I can

find out from the record, in June or July eighteen hundred and seventy-one, and completed in December, eighteen hundred and seventy-three, if completed at all. The Clerk informs me that there are no bonds. Since the twentieth of August, eighteen hundred and seventy-three, there has been issued to Tom. W. Reece upwards of ten thousand dollars worth of bonds. It looks a little extravagant. An order of the Board of Supervisors allows him fifteen dollars a day.

Mr. Lindsey—What was he doing to get fifteen dollars a day?

A.—He was an engineer.

Mr. Ferguson—Was he assisting this man Pennington?

A.—I don't know, sir.

Q.—How much do they pay Pennington?

A.—I don't know that; I don't know how much time he puts in on it?

Q.—He is under salary, is he not?

A.—I think not; the law says that the County Surveyor shall be ex officio the engineer of the district; it provides that he shall have five dollars a day in scrip, which hardly pays the surveyor; but any amount that may be allowed by the Board of Supervisors may be allowed for assistants, and Reece is the Assistant Engineer.

Mr. Finney—They have paid him ten thousand dollars.

A.—He has had upwards of ten thousand dollars.

Mr. Lindsey—At the upper end of this District Number Five, I understand that there was at one time a dam, or bulkhead, or something of that kind, that is washed away. Do you know anything about that?

A.—Yes, sir.

Q.—State what length of dam was there, and what its size was.

A.—I was there, I think, in September or October—any way, last Fall—when they were completing it. About half or three quarters of a mile there is a levee run along there [shows on the map]. Here this levee is run entirely straight across this little stream, and follows along the south side of Butte Creek Slough, there to the mouth of Butte Creek. Here it runs along this way [showing]. [The remainder of the testimony of the witness on this point is given with constant references to the map, and is perfectly unintelligible to the Reporter.]

Mr. Finney—That was cut by some parties, was it not?

A.—I don't know anything about that of my own knowledge. I have been told that it was cut a year ago last Winter.

Mr. Kercheval—Do you know of any money that ought to be in the Swamp Land Fund of your county that is not there; if so, what is it and where is it?

A.—In eighteen hundred and fifty-six, eighteen hundred and fifty-seven, eighteen hundred and fifty-eight, eighteen hundred and fifty-nine, eighteen hundred and sixty one, eighteen hundred and sixty two, and eighteen hundred and sixty-three, considerable swamp land was taken up in that county, on which twenty per cent and interest from time to time was paid. In the Winter of eighteen hundred and sixty-nine, I think it was, the District Attorney brought suit in that county to annul the certificates where the parties were delinquent, and to compel the payment of interest then due on different swamp land purchases, and provide for the issuance of certificates. There was quite a large number of certificates annulled, and there were some who made deeds directly to the State, and forfeited their claim on the lands; and then, in their own persons, or by their friends, filed new applications for the land and retook it, to escape in this way the payment of their delinquent interest. All the lands, the titles to which were foreclosed, have been retaken, and twenty

per cent and some interest paid. That twenty per cent and the interest paid, have been sent back to the county, into the Swamp Land Fund of the county. The money paid in by purchasers prior to foreclosures or abandonments of title, has not come back. I know of one case where a tract was taken by E. T. Perry, in eighteen hundred and sixty-three, I believe it was, and there was one hundred and thirty dollars paid on it. Then the interest was not paid for several years, and it was abandoned, and I retook it, and it was resurveyed; but the money that I paid in on it never came back.

Mr. Finney—Did I understand you to say, that that portion of the reclamation work that was let to Parks, that he did no work at all on it himself?

A.—No, sir; it was Drew & Carroll who took the contract for the most of the work.

Q.—Did you state that there was no work of any consequence done by them?

A.—I think there was little or none done by them; I am not prepared to say very much about that.

Q.—Did they claim to have done much work?

A.—I think not; they were never there.

Q.—Then they never performed the contract that they took?

A.—It does not appear so from the record; it appears that Wm. H. Parks received the warrants. Here is an old memorandum I made as I was investigating. I will read this over. [Reads memorandum, a copy of which is given in this transcript, marked "Exhibit 1."] The bills, as they appeared in the Clerk's office there, are the ordinary bills for Road Fund, and Hospital Fund, etc.; and then it says: "Sutter County, Dr. to William H. Parks, for building levee, so many cubic yards, so much." I have been told that Mahoney was one of the Board of Supervisors of the county when a contract for reclamation work was let to his brother. The one to whom the contract had been let was approached, directly after the letting, by a person who wanted to get a sub-contract. He said, "You have got a contract; there has been one awarded to you;" but Mahoney said, "I have not bid for any." It was awarded to Lee & Mahoney, the brother of the Supervisor. I understand that this contract was continued up to eighteen hundred and seventy-two.

Q.—I see from the items here that Parks received something over ninety-six thousand dollars at one time. Was that received for work that he performed after he took the contracts?

A.—This was all in the Fall of eighteen hundred and seventy-three. Drew & Carroll took the contracts some time in June, eighteen hundred and seventy-one. I don't know of any contract having been taken since then, and don't think there has been any.

Q.—Do you know whether this money which was drawn was drawn for work, any portion of which was performed before Mr. Parks took the contracts of these other gentlemen?

A.—I don't know who built the first dam, nor who built what was built down about Nicolaus, along the bank of Feather River, except that I saw some Chinamen working there last Fall. I saw a man by the name of Bishop at work there; I think he had a partner. I think that was in the Fall of eighteen hundred and seventy-one, and I am told that a large portion of what they constructed has been washed away. I was

told by W. F. Nelson that trees had been chopped down on the line of the levee there and left hanging to the stump, and then brush packed in around them, and earth thrown over that. He said there were chunks, and logs, and brush thrown in the old levee where the levee washed away.

Mr. Ferguson—Do you know of anybody who would give us any evidence upon this matter, as to the subletting of these contracts?

A.—Yes, sir; Perdue, one of the present Board of Supervisors—W. H. Perdue. He took a contract for [reads] “all that portion of levee in Levee District Number Five which crosses the premises of the said W. H. Perdue, for the sum of twenty-eight and a half cents per cubic yard.” I have been told by a neighbor of Perdue that this was a mere bait—that Perdue took this contract for the sake of leading others in, and never completed it.

Mr. Lindsey—Was he at that time a Supervisor?

A.—No, sir; not at that time. Here is a contract that never was performed at all—that of J. P. Bainbridge, [reads] “all that portion of levee in Levee District Number Five beginning at the mouth of Butte Creek Slough, and running down the river for five miles; for the sum of twenty-eight and one half cents per cubic yard.” This contract was let June twenty-sixth, as appears from the record, and was let for that portion of territory which Parks claims, or lately claimed; is not in Number Five.

Mr. Finney—Was any money drawn out to pay for this contract that was never performed—that of Perdue?

A.—I don't know whether there was ever any money drawn on that or not; I presume if he built any there was. There may have been contracts made after that; I never could find any. Mr Pennington wrote specifications how the levees should slope. I know that the dam at the Buttes did not have that amount of slope spoken of in Mr. Pennington's estimate.

Q.—Do you remember what his estimate was?

A.—Two feet on the outside, where the dry land ought to be, as I understood it, to one foot perpendicular; and three feet to one foot on the inside. I think the dam at the Buttes had the specified amount of slope on the water side; but on the other I think probably it was not more than one foot slope to one foot perpendicular. It was just as nearly perpendicular as it could stand up to. There were immense chunks of earth put in there—just piled in anyway to get it in. I have only watched this business since December, eighteen hundred and seventy-one. I wish to say this, that on the twenty-ninth of May, eighteen hundred and seventy-one, Parks, Roberts, Stabler, Pennington, and others, making the majority in interest, presented a petition—or it appears so from the records—to the Supervisors, for the exclusion of certain territory from the district, which took about all, if not quite all, the Government land from near Knight's Landing to the mouth of Butte Creek Slough. On the twentieth of August, last, the clerk sends down, under his seal, and signed by one of the Supervisors, a certificate to the Surveyor General, that the boundaries of the district had not been changed since its formation. I obtained a copy of this certificate and a copy of the order granting the petition for changing the boundaries, and published them both.

Mr. Finney—What was the object of the statement that the boundaries of the district had not been changed, or that they had been?

A.—The settlers held a meeting and passed resolutions remonstrating

against and denouncing the whole thing. Parks and the others petitioned the Supervisors to change the boundaries, so as to let out all the land commencing a little below Knight's Landing, following up the railroad a little ways, and then following the segregation line northerly to the mouth of Butte Creek Slough; and the petition was granted. I always claimed that it is unlawful.

Q.—What was the object of the certificate sent down here to the Surveyor General, stating that the boundaries had not been changed?

A.—I don't know, sir, without it was to get the money into the Swamp Land Fund.

Mr. Wilbur referred in his evidence to a certified copy of the records of District Number Five, a true copy of which certified copy is annexed to his testimony, and marked "Exhibit 1."

A copy of the memorandum referred to by Mr. Wilbur, is also annexed to his testimony, and marked "Exhibit —."

(Copy.)

Proceedings of the Board of Supervisors, relative to Levee District Number Five, of Sutter County, at its regular term, Saturday March eleventh, A. D. eighteen hundred and seventy-one.

In the matter of the petition of W. H. Parks, S. I. Stabler, George D. Roberts, and others, for the formation of a levee district.

In pursuance of an Act of the Legislature of the State of California, entitled "An Act for the protection of certain lands in the County of Sutter from overflow, approved March twenty-fifth, A. D. eighteen hundred and sixty-eight," it is ordered by the Board of Supervisors of Sutter County, California, that the territory described in the petition of W. H. Parks and others, for the formation of a levee district, to be known as Levee District Number Five, (5), under the provisions of said Act, bounded and described as follows, to wit: Beginning at the north-east corner of section ten, township fourteen north, range two east; running thence south five miles; thence due east one half mile; thence south two miles; thence east one and one-half miles; thence south one mile; thence east one mile; thence south one half mile; thence east one half mile; thence south one half mile; thence east to Feather River; thence southerly, along the western bank of said Feather River, to its junction with the Sacramento River; thence up stream and along the eastern bank of said Sacramento River to the Butte Creek Slough; thence northerly, along the boundary line between the Counties of Sutter and Colusa, to the northern line of section thirty-six, township seventeen north, range one west; thence east to Mount Diablo meridian line; thence south one mile; thence east one and a quarter miles; thence south one quarter of a mile; thence east one quarter of a mile; thence south three quarters of a mile; thence west one half mile; thence south one quarter of a mile; thence west one quarter of a mile; thence south one quarter of a mile; thence west one half mile; thence south one quarter of a mile; thence west one quarter of a mile; thence south two and one quarter miles; thence east one quarter of a mile; thence south one half mile; thence east one quarter of a mile; thence south two miles; thence east one quarter of a mile; thence south one half mile; thence east one half mile; thence south one quarter of a mile;

thence east one quarter of a mile; thence south one quarter of a mile; thence east one quarter of a mile; thence south one quarter of a mile; thence east three quarters of a mile; thence south one quarter of a mile; thence east three quarters of a mile; thence south one half of a mile; thence east two and one half miles; thence south one fourth of a mile; thence east one fourth of a mile; thence south one fourth of a mile; thence east one fourth of a mile; thence south one mile; thence east one quarter of a mile; thence south three quarters of a mile; thence east one quarter of a mile; thence south three quarters of a mile; thence east one quarter of a mile; thence south one quarter of a mile; thence east one mile; thence south one and one half miles; and thence east one mile, to the place of beginning; excepting and reserving therefrom, and from the operation of this petition, and from the levee district now and hereby sought to be erected, all of the lands now embraced in Levee District Number Seventy (70), of said Sutter County; the district here sought to be erected and set apart contains one hundred and twenty-two thousand nine hundred and fifty-seven and fifty-eight one hundredth acres, more or less, be and the same is hereby set apart and erected into a levee district. And it is further ordered, than an election, for one Assessor and one Collector of said district, be held at the election precincts in said district—precinct to be at Brannan's House—on Thursday, the (20) twentieth day of April, A. D. eighteen hundred and seventy-one. Said election shall be conducted, as near as practicable, in conformity with the general election laws, except registration shall not be required; and that the Clerk shall post and publish notices as by law required. And it is further ordered, that J. T. Pennington, County Surveyor, proceed to make such surveys and estimates as will enable him to segregate and describe, by legal subdivisions and parts of subdivisions, the amount of swamp land, apart from the high lands, embraced in the boundaries of said levee district. Also, that he prepare and submit to this Board plans and specifications for the reclamation of said levee district, together with an estimate of the cost and probable expenses for the establishment, location, and construction of embankment and levees as shall be necessary for the protection from overflow the said district, and report his proceedings to this Board as soon as practicable.

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BOARD OF SUPERVISORS, }
Sutter County, April 3d, A. D. 1871. }

In the matter of the report of J. T. Pennington, County Surveyor, heretofore ordered to prepare and submit plans and specifications for the construction of Levee District Number Five.

It is ordered by the Board, that the report and plans and specifications, as submitted by J. T. Pennington, County Surveyor of Sutter County, for the location and building of levee in Levee District Number Five.(5), be and the same are hereby adopted and ordered to be placed on file, the said report to be recorded herein by the Clerk.

In the matter of ordering an election in Levee District Number Five, for one Assessor and one Collector of said district:

In pursuance of an Act of the Legislature of the State of California

entitled an "Act to provide for the protection of certain lands in the County of Sutter from overflow," approved March twenty-fifth, A. D. eighteen hundred and sixty-eight, it is ordered by the Board of Supervisors of Sutter County, California, that a special election be held on Monday, the twentieth (20th) day of April, eighteen hundred and seventy-one, in Levee District Number Five, at which election the qualified electors of said levee district shall vote for one person for Assessor of levee district, and one person for Tax Collector of said district. The poll shall be opened at eight o'clock in the morning, and close at sundown on the same day, at the following named places; and the following named persons are hereby appointed Inspectors and Judges of said election, to wit:

Knight's Precinct, Emmet Masters' house; Emmet Masters, Inspector; C. C. McCormick and I. L. Byington, Judges. Rome Precinct, at store; T. D. Kirk, Inspector; William Giles and W. McPhetridge, Judges. Cranmore Precinct, at school house; I. I. Jordan, Inspector; I. F. Gaw and G. W. Hiatt, Judges. Lafayette Precinct, at school house; C. H. Newton, Inspector; W. H. Perdue and Hugh Lynch, Sr., Judges. Meridian Precinct, at school house; John Crowley, Inspector; W. H. Hendricks and R. T. Perry, Judges. Brannan's House; H. W. Murphey, Inspector; and George Zins and James Lee, Judges.

The ballots shall contain the name of the person voted for Assessor, and the name of the person voted for Tax Collector. Said election shall be conducted, as near as possible, in conformity with the general laws.

It is further ordered, that the Clerk publish notices of said election in the weekly *Sutter Banner* for at least ten days, and that he post notices of said election in three of the most public places in said district for ten days. Said notices to contain the time and places of holding said election, the names of the Inspectors and Judges of said election.

It is further ordered, that the Clerk notify the Surveyor General that all the swamp and overflowed lands in Sutter County lying between the Feather and Sacramento Rivers, running north to the township line between Townships Sixteen and Seventeen north, less that portion of land embraced in Levee District Number Seventy, of Sutter County, has been erected into a swamp land district, and that they are now about proceeding to reclaim the same, and ask him to suspend the payment of interest on said swamp land.

It is further ordered, that the Clerk advertise in the *Sutter Banner* notice inviting sealed proposals for building and constructing levee in Levee District Number Five, in accordance with plans and specifications on file in the office of the Clerk of the Board; the same to be let to the lowest responsible bidder or bidders, who will be required to give bond according to law. No bids will be received after twelve o'clock m., on Monday, April twenty-fourth, eighteen hundred and seventy-one. Bidders will state their bids per cubic yard, payable in warrants drawn on the Fund of Levee District Number Five. Said work to be let as a whole, or divided into sections of one mile, more or less, the Board reserving the right to reject any and all bids.

It is further ordered, that J. T. Pennington, County Surveyor, be and he is hereby directed to proceed to specially locate and establish said levee, and to set stakes, pegs, and make proper levels for the grading of the same.

To the Honorable Board of Supervisors, in and for Sutter County:

GENTLEMEN—I herewith submit the following report, in compliance with your order of March eleventh, eighteen hundred and seventy-one, directing me to prepare and submit to your honorable body, as soon as practicable, plans and specifications for the protection of Levee District Number Five from overflow, together with an estimate of the probable costs and expense of the location and construction of the levees, ditches, and dams necessary for the same.

The work of protecting the above district from overflow is one of vast magnitude, and from sixty to ninety days would be required, with two or three surveying parties in the field, to enable me to give you the exact information specified in your order of March the eleventh.

To facilitate and forward the work, I therefore give you the result of such calculations and computations as I have been enabled to make from official maps, and other reliable data already at hand.

The protection of District Number Five has partly engaged my attention for several years past, and my theory was, that to do the same successfully, the waters flowing from Butte Creek, and other sources, into the tules, should be confined by embankments to a channel, and thus constructed to the Sacramento River, at some point not far above the mouth of Feather River; also, that levees should be constructed at the same time along the left bank of the Sacramento River, and the right bank of Feather River, and joining to the embankments running down through the tule.

The cost of the above method of reclamation would probably reach the sum of one million of dollars, and, therefore, could not be entertained at this time.

The theory has, however, been advanced, by an eminent authority, that the district can be protected from overflow by leveeing Feather and Sacramento Rivers, Butte Slough, and Butte Creek, without going to the vast cost of embankments and other works running down through the tule.

I have concluded to recommend to your honorable body the adoption of the latter plan as the most feasible at this time, for the reason that it will not cost a sum exceeding two hundred and fifty thousand dollars, and, if successful, will save the sum of about seven hundred and fifty thousand dollars to the district; and if not successful, the levees would only be broken in a few places, and the greater portion left standing and ready for use if my first plan, or a similar one, should next be adopted. In any plan of protection, the banks of the rivers must be leveed, and the money expended upon them will not be thrown away or lost to the district.

My plan is, then, to commence at the lower end of the levee erected for the protection of Levee District Number One, on the right bank of Feather River, and continue a levee down Feather River to its mouth; thence up the Sacramento River to Butte Slough, all of which levee shall be raised at least three feet above high water mark, four feet wide on top, with slopes of two feet horizontal on the inside, and three feet horizontal on the outside to one foot perpendicular; continuing the levee thence along the south side of Butte Slough, and crossing the same at a point to be determined by the engineer; and running thence, on the most practicable route for a levee, to a point and crossing Butte Creek; and thence up Butte Creek to the upper end of the district; and thence running easterly to high lands.

The dams across Butte Creek and Butte Creek Slough, and the section of levee connecting them, to be six feet above high water mark, and eight feet wide on top, with slopes as before mentioned, and the dams across all other sloughs to be erected in the same manner. The levee from the Sacramento River to the upper end of the district to be of the same dimensions as that preceding it, with the exception of the dams across Butte Slough and Butte Creek, and the portion of levee connecting them as above stated. The ground selected and marked out on which the levee is to be built, shall first be completely cleared the full width of the levee, and all trees, stumps, roots, and grubs, and all other extraneous matter removed, and then plowed or dug up, so as to unite properly the levee and its base. The earth for the levee shall be taken from the space between the base of the levee and the river slough, or other boundary, leaving a space of not less than eight between the levee and the excavation; the excavation to be of such length as the engineer may determine, not exceeding one thousand five hundred feet in length, When the earth cannot be obtained as above, then the engineer shall determine where it shall come from. The estimate of the engineer shall be deemed correct, and bidders will state their bids per cubic yard, according to the estimate, and the bids will include all the clearing, grubbing, plowing, or digging, or other work necessary to complete the levee. Should the engineer deem it necessary to change the line, and the number of yards should be decreased, it will be deducted from the contract; and if increased, it shall be paid for at the same rate per yard as named in the contract.

The engineer shall have full authority to have every part of the work done in accordance with the specifications and contract; and any work done in violation of his order shall not be paid for.

For shrinkage, one inch and a half shall be added to every foot in height of the levee, for which there will be no additional pay allowed the contractor. The levee to be divided into sections of a mile each, as near as may be.

Respectfully submitted.

J. T. PENNINGTON,
County Surveyor Sutter County, Cal.

April 2d, 1871.

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BOARD OF SUPERVISORS, }
Sutter County, Cal., April 24th, 1871. }

In the matter of Levee District Number Five, a remonstrance against the order of the Board at a previous session was submitted by G. W. Hiatt, Wm. Rackerby, N. Thurston, B. G. Hulbert, and a reconsideration prayed for.

The matter being duly considered, it is ordered by the Board that the report of J. T. Pennington, Surveyor of Levee District Number Five, be reconsidered, and he be given until May twenty-second to submit another to this Board.

In the matter of an election for Assessor and Collector for Levee District Number Five, on the twentieth day of April, A. D. eighteen hundred and seventy-one.

The Board proceeded to canvass the poll lists as returned from the

following precincts: Lafayette, J. G. Holloway received thirty-one (31) votes for Assessor, and S. J. Hunter received thirty-one (31) votes for Collector; Rome Precinct, J. G. Holloway received thirty-six votes for Assessor, and S. J. Hunter received thirty-six votes for Collector; Brannan Precinct, for Assessor, William Doty received thirty (30) votes, and for Assessor Frederick Cooper received thirty votes; Cranmore Precinct, J. G. Holloway received nineteen (19) votes for Assessor, and S. J. Hunter received nineteen (19) votes for Collector. J. G. Holloway having received a majority of all the votes cast, is declared duly elected Assessor of Levee District Number Five. S. J. Hunter having received a majority of all the votes cast, is declared duly elected Collector of Levee District Number Five.

BOARD OF SUPERVISORS,
Sutter County, Cal., May 22d, 1874. }

In the matter of the report of J. T. Pennington, Engineer of Levee District Number Five.

An order having been made on the twenty-fourth day of April, eighteen hundred and seventy-one, in which the Board reconsidered the report of J. T. Pennington, Engineer of Levee Number Five, submitted on the third of April, eighteen hundred and seventy-one, and granting him until May twenty-second, eighteen hundred and seventy-one, to make and submit another to this Board; and now, agreeably to such order, this cause coming on for a hearing, and J. T. Pennington having submitted his said report, the Board, after due consideration, order that said report be and is adopted, and ordered placed on file.

Ordered by the Board, that the account against Levee District Number Five be and is allowed, and the Auditor to draw warrants for the same on Fund of Levee District Five, at the rate of eighty-five cents on the dollar.

BOARD OF SUPERVISORS,
Sutter County, Cal., May 29th, 1871. }

In the matter of the petition of W. H. Parks, Geo. D. Roberts, and others, for the reclamation of swamp lands.

It is ordered by the Board, that W. H. Parks, Geo. D. Roberts, and others, be and they are allowed to file an amendment to their petition filed March eleventh, eighteen hundred and seventy-one, praying for the location and establishment of a levee district for the reclamation of certain described territory of swamp land.

Further ordered, that their amended petition, this day presented, be and the same is hereby adopted, and ordered placed on file; and that the boundaries of said levee district be changed in accordance with said petition, which is as follows:

To the honorable Board of Supervisors Sutter County, State of California:

We, the undersigned owners and holders of a majority of the land in Reclamation District Number Five, in Sutter County, most respectfully petition your honorable body to change the boundaries of said district as

follows: Commencing at a point on Sacramento River where the range line between two and three east intersects said river; thence due north along said line to the northeast corner of section thirteen, in township eleven north, two east; thence due west along said section line to where it crosses the California Pacific Railroad; thence northerly along said railroad to northeast corner of the southeast quarter of the southwest quarter of section thirty-five, township twelve north, range two east; thence northwesterly along the Government line to the northeast corner of the southeast quarter of section twenty-one, in township twelve north, range two east; thence northerly, along and following the State segregation line, to Butte Creek Slough.

PARKS & BROS.,

Seventeen thousand eight hundred and eighty acres.

DECKER & PARKS,

Six hundred acres.

THOMAS KIMBALL,

Two thousand acres.

GEO. D. ROBERTS,

Forty-one thousand acres.

It is further ordered, that the Clerk of this Board advertise in the *Sutter Banner* for sealed proposals for building and constructing the embankment of said Levee District Number Five, in accordance with the plans and specifications on file in the office of the Clerk of this Board, commencing at the lowest end of District Number One; run thence down Feather River to its junction with the Sacramento River; thence up said Sacramento River to where the range line between ranges two and three east crosses the Sacramento River; and from Butte Creek Slough to the upper end of said levee district. The contract for the construction of said levee will be let as a whole or divided into sections of one mile each, to the lowest responsible bidder or bidders, who will be required to give a sufficient bond conditioned according to law; bidders to state their bids per cubic yard, payable in warrants drawn on the Fund of Levee District Number Five. The Board reserves the right to reject any and all bids.

BOARD OF SUPERVISORS.

June 20th, A. D. 1871. }

In the matter of receiving sealed proposals for the construction of levee in Levee District Number Five:

And now on this day, this cause coming on for the receiving and opening sealed proposals for the construction of levee in Levee District Number Five (5), the following are the bids received and which were by the Board awarded to the respective bidders: Bidders, Gallier Engasser and John Zimmerman—All that section of levee in Levee District Number Five from the lower end of John Hanson's levee, along the west bank of the so called Sheep House Slough, to the sheep house on the road from Nicolaus to Yuba City, at twenty cents per cubic yard; or, that section of said levee from the levee on John Hanson's farm along on river line down across section thirty-six, township thirteen north, range three east, and across George Zins' land, at twenty-five cents per cubic yard.

W. F. Velsou—All that portion of levee running across section numbers eleven, fifteen, and north half of section number fourteen, in township twelve north, range three east, at twenty-five cents per cubic yard.

R. H. Stockton—That portion of levee in Levee District Number Five running across the south half of section number fourteen, township twelve north, range three east, at twenty-five cents per cubic yard.

M. G. Lee & Co.—All that portion of said levee as lies in section number twenty-three, township twelve north, range three east, and in section number four, township eleven north, range three east, for the sum of thirty cents per cubic yard; also that portion beginning at the south half section line of section twenty-two, also section twenty-seven, thirty-six, and north half of section thirty-four north, range three east, at twenty cents per cubic yard.

Francis Heyland—For all that portion of Levee District Five running across the south east half of section thirty-three, township twelve north, range three east, at thirty cents per cubic yard.

Drew & Carroll—All that portion of levee in Levee District Five commencing at the lower end of the levee for the protection of Levee District Number One, and running thence down Feather River to its junction with the Sacramento River, to where the line between ranges two and three east crosses said river; and also that portion of the levee on Butte Creek Slough, and for said slough, and running thence northerly to the north boundary of Levee District Number Five, at thirty cents per cubic yard, with an addition of twenty cents per cubic yard for all earth that has to be hauled.

The Board, after due consideration, ordered that the building of the levee in Levee District Number Five, of all that portion above described in the bid of Drew & Carroll, be and the same is hereby awarded to the said Drew & Carroll, for thirty cents per cubic yard, and twenty cents additional for all earth that has to be hauled; with the exception of the portion of levee for which bids were made by Engasser, W. F. Nelson, R. H. Stockton, M. G. Lee & Co., and Francis Heyland, which said portions are hereby awarded to the respective bidders, at the amount set forth in their respective bids.

Further ordered, that each of the above named contractors enter into bonds, at the rate of two thousand dollars for each mile of levee so contracted to be built, with good and sufficient sureties, to be approved by this Board.

On motion of W. H. Parks, and it having appeared to the full satisfaction of the Board, in consequence of the failure of the Assessor and Tax Collector elect of Levee District Number Five, that the said offices should be declared vacant.

It is ordered, therefore, that the said offices of Assessor and Tax Collector of Levee District Number Five, of Sutter County, be and the same are hereby declared vacant. And it is further ordered by the Board, that a special election be held on Monday, the tenth (10th) day of July, A. D. eighteen hundred and seventy-one, in Levee District Number Five, at which election the qualified voters of said levee district shall vote for one person for Assessor and for one person for Tax Collector of said Levee District Number Five. Said election shall be conducted, as nearly as possible, in conformity with the general election laws, except that registration shall not be required.

The Judges and Clerks who were appointed, and who acted as such Judges and Clerks of Election of the special election held in said Levee District Number Five, on Monday, the twentieth day of April, eighteen

hundred and seventy-one, are hereby appointed to act as such Judges and Clerks of Election of the special election to be held on the tenth day of July, eighteen hundred and seventy-one; said election to be held at the voting precinct in said levee district heretofore appointed for that purpose.

It is further ordered, that the Clerk publish notice in the *Sutter Banner* of said election, and that he post notices of said election in three of the most public places in said levee district; said notice to contain the time and places of holding said election, and the names of the Judges and Clerks of said election.

BOARD OF SUPERVISORS,
June 26th, A. D. 1871. }

In the matter of sealed proposals and advertising for the construction of levee in Levee District Number Five.

Ordered by the Board, that the Clerk give notice in the *Sutter Banner* inviting sealed proposals for the construction of that portion of said levee commencing at the junction of Feather and Sacramento Rivers; thence up said Sacramento River to where the line between ranges two and three east crosses said river; and also, that portion of levee on Butte Creek Slough; and from said slough and running thence northerly to the north boundary of Levee District Number Five. Said levee to be constructed in accordance with plans and specifications which can be seen at County Clerk's office; which will be let to the lowest responsible bidder or bidders; bidders to state their bids per cubic yard, payable in warrants drawn on the Fund of Levee District Number Five.

Board preserves the right to reject any and all bids.

TUESDAY, June 27th, 1871.

In the matter of approving of bonds of contractors of Levee District Number Five.

Ordered by the Board, that the bonds of Drew & Carroll, R. H. Stockton, and Francis Heyland, for constructing certain portions of levee in Levee District Number Five, heretofore awarded by an order of this Board, be and the same are hereby approved and placed on file.

BOARD OF SUPERVISORS,
Sutter County, July 12th, 1871. }

In the matter of the election of Levee District Number Five.

Ordered by the Board, that an election be held throughout the District of Levee District Number Five, at the voting precincts in said levee district, on Friday, August fourth, eighteen hundred and seventy-one, for the election of one Assessor and one Tax Collector of said Levee District.

Further ordered, that the following named persons be and are appointed as Clerks and Judges of said election, viz: at Knight's Precinct:

G. M. ATEN,
Clerk.
J. L. BYNIGTON,
C. G. McCORMICK,
Judges.

Brannan Precinct:

JAMES T. LEE,
Clerk.
GEO. ZINS,
R. H. STOCKTON,
Judges.

On motion, the County Surveyor is hereby ordered to correct the survey of the line of the levee on Feather River, and also that surveyor proceed to make township maps of Levee District Five, Sutter County.

In the matter of receiving and opening of bids for the construction of levee in Levee District Number Five.

The matter of receiving and opening sealed proposals for constructing levee in Levee District Number Five, according to the advertisement in *Sutter Banner* of June thirtieth, A. D. eighteen hundred and seventy-one, coming on regularly, and all the bids before the Board having been opened, and the Board considered the same, awards as follows:

To M. H. Smith—All that portion of levee in Levee District Number Five beginning at a point on the line between the land of Wm. R. Rack-erby and M. H. Smith, and running to a point on the line dividing the lands of Clark Wells and M. H. Smith, for the sum of twenty-five cents per cubic yard, where the land does not require grubbing, and where the land requires grubbing, for the sum of thirty cents for each cubic yard.

To W. B. Smith—All that portion of levee in Levee District Number Five beginning at the line between Thomas Kirk and said W. B. Smith, and running to the line between Jonas Moore and said W. B. Smith, for the sum of twenty-five cents per cubic yard, for that portion where the land does not require grubbing, and thirty cents per cubic yard where the land requires grubbing.

J. P. Bainbridge—All that portion of levee in Levee District Number Five beginning at the mouth of Butte Slough, and running down the river for five miles, for the sum of twenty-eight and one half cents per cubic yard.

W. H. Perdue—All that portion of levee in Levee District Number Five which crosses the premises of the said W. H. Perdue, for the sum of twenty-eight and one half cents per cubic yard.

Drew & Carroll—All that portion of levee in Levee District Number Five commencing at the junction of Feather and Sacramento Rivers; running thence up said Sacramento River to where the line between ranges two and three east crosses said river; and, also, that portion of the levee on Butte Creek Slough; and from said slough, running north-

erly to the north boundary of Levee District Number Five, except such portions of the same as have this day been awarded to other parties, for the sum of twenty cents per cubic yard for all earth that will have to be hauled.

Ordered by the Board, that the Clerk give notice, through the *Sutter Banner*, that an election will be held in Levee District Number Five, Sutter County, for the purpose of electing one Assessor and one Tax Collector of said Levee District Number Five, to be holden on Friday, August fourth, eighteen hundred and seventy-one; also, that he post notices of such election proclamation according to law.

Special meeting of the Board of Supervisors of Sutter County, California.

WEDNESDAY, July 19th, A. D. 1871.

To the Honorable Board of Supervisors of Sutter County:

GENTLEMEN: On the twenty-fourth day of April, eighteen hundred and seventy-one, the undersigned was given until this day (May second, eighteen hundred and seventy-one) to make another report relative to the protection of Levee District Number Five from overflow.

In pursuance of said order, I herewith respectfully report that, on the first day of May, I appointed Mr. James L. Drum Assistant Engineer of Levee District Number Five; that, on the same day, he organized a party of assistants (five in number), and proceeded, in a spring wagon procured for that purpose, to the field, and commenced, under instructions of myself, at the northeast corner of the north west quarter of section ten, township four north, range two east, and run thence along the general line of segregation made under authority of the State; extended said line to its intersection with the railroad near Knight's Landing, a distance of twenty and one third miles. A profile map, with a table exhibiting the average height of each mile, is herewith submitted. Said line affords a practicable route for a levee, and with more time to select along it, much improvement might be made in the selection of ground.

I propose next to have surveys and levees made, commencing on Butte Slough and running along the same and up Butte Creek to the northern end of the proposed levee, and will submit maps of the same as soon as completed, and from said slough to the upper end of said levee district, and from the lower end of the levee, for the protecting of Levee District Number One, and running thence down Feather and up the Sacramento River to the railroad. I recommend the general adoption of so much of my former report as refers to that portion of the levee, leaving the portion of levee extending from Butte Slough to the railroad to be generally located at a future meeting of your honorable body.

Respectfully submitted.

J. T. PENNINGTON,
Engineer Levee District Number Five.

May 22d, 1871.

Whereupon, after a careful examination of the Board, they find and declare that the following named persons received the number of votes set opposite their names for Assessor and Tax Collector of said Levee District Number Five: For Assessor of Levee District Number Five, J. T. Lee — votes; for Tax Collector of Levee District Number Five, W. A. Ossley — votes.

Further ordered, that the County Clerk procure and furnish the Assessor and Tax Collector with suitable books for their purpose as such officers.

It is ordered by the Board, that the official bond of J. T. Lee, Assessor of Levee District Number Five, be and the same is hereby approved.

Francis Hamblin, Allen S. Noyes, and others, presents and files in the Board of Supervisors a remonstrance against the construction of levee and the filling up of Butte Slough, in Levee District Number Five, which is taken under consideration.

In the matter of the report of J. T. Pennington, relative to levee in Levee District Number Five, across Butte Creek and Butte Creek Slough:

The report of J. T. Pennington, County Surveyor, relative to levee in Levee District Number Five, across Butte Creek, and Butte Creek Slough, having been presented, and the Board having been fully advised in the matter, orders that the said report of J. T. Pennington be and the same is hereby adopted.

In the matter of the communication of the County Surveyor relative to propriety of letting in flood gates in that portion of levee, in Levee

District Number Five, where the same crosses Butte Creek and Butte Creek Slough:

It is ordered by the Board, that the communication of J. T. Pennington, relative to the letting in of flood gates for drainage and irrigating, in said Levee District Number Five, where the same crosses Butte Slough and Butte Creek, be and the same is hereby adopted.

Further ordered, that the County Clerk advertise for bids on sealed proposals, to be received at the office of the Clerk of the Board of Supervisors until September eighteenth, eighteen hundred and seventy-one, for the manufacture and delivery, in Yuba City, of heavy sheet iron tubing, of ten, twenty, thirty, and forty inches in diameter, with cast iron flanges, projecting therefrom three, five, and six feet. Bidders to estimate by the lineal foot for each size of tube and flange; to be paid in warrants drawn on Fund of Levee District Number Five.

Board reserving the right to reject any and all bids.

In the matter of levying a tax upon all property in Levee District Number Five.

It appearing to the satisfaction of the Board of Supervisors of Sutter County, California, that a tax of two per cent upon all the property of Levee District Number Five is necessary to provide means to carry on the work of reclamation of said district, and the construction of levees, embankments, and other works, for the protection of said district from overflow.

It is ordered by the Board, that a tax of two per cent, or two dollars on each one hundred dollars of value of property, be and the same is hereby levied upon all the property, real and personal, in Levee District Number Five, in the County of Sutter, State of California, for the purpose of constructing levees, embankments, and other works, to protect said district from overflow.

And it is further ordered, that the Levee Assessor of said Levee District Number Five do proceed, immediately, to assess all property in said Levee District Number Five, and that he prepare an assessment roll of such assessment, and that he therein place, in separate columns, all the real and personal property assessed by him, in accordance with the provisions of the Act of the Legislature of the State of California entitled "An Act to provide for the protection of certain lands in the County of Sutter from overflow," approved March twenty-fifth, A. D. eighteen hundred and sixty-eight.

And it is further ordered, that the Clerk give notice that on Wednesday, the sixth day of September, eighteen hundred and seventy-one, at the general election to be held on that day, there will be an election, by the qualified electors of said Levee District Number Five, for one Assessor and one Tax Collector for said Levee District Number Five.

BOARD OF SUPERVISORS SUTTER COUNTY, CALIFORNIA, }
Regular Term, September 25th, 1871. }

In the matter of receiving and opening bids for furnishing piping for Levee District Number Five.

E. C. Ross being the only bidder for the furnishing of pipe for Levee District Number Five, in accordance with previous advertisements of this Board, and which said bid is as follows:

8 inch pipe, from Number 16 iron, @ \$1 25 per foot.
 10 inch pipe, from Number 16 iron, @ \$1 75 per foot.
 18 inch pipe, from Number 14 iron, @ \$2 50 per foot.
 27 inch pipe, from Number 14 iron, @ \$3 50 per foot.
 Cut iron water gates, @ 12½ cents per pound.

It is ordered by the Board, that the contract for furnishing pipeing for Levee District Number Five be and the same is hereby awarded to E. C. Ross & Co., and that upon the presentation of a certificate from the engineer of said levee, stating the size, number, and length of each kind of pipe received, and the amount, as per the above stated bids, the County Auditor shall draw his warrant on the Treasurer for such sum, payable from the Fund of Levee District Number (5) Five.

It appearing to the satisfaction of the Board that J. P. Bainbridge has abandoned his contract for building certain portions of levee, in Levee District Number Five, heretofore awarded to him;

It is ordered, that the said contract be and is awarded to Drew & Carroll, and included in their contract for the construction of levee in Levee District Number Five, awarded to them by this Board on the twelfth day of July, eighteen hundred and seventy-one.

And it is further ordered, that the said contractors proceed to make and file their bond, for the performance of said contract, in the sum of forty thousand dollars.

BOARD OF SUPERVISORS,
 Sutter County, Cal., October 23d, 1871. }

In the matter of Levee District Number Five, and appointment of attorney for same.

Ordered by the Board, that I. S. Belcher, Esq., be appointed attorney in matters pertaining to the District of Levee Number Five, and that he be requested to give a written opinion to this Board as to whether the County of Sutter is in any way responsible for the payment of warrants drawn on the Fund of Levee District Number Five, other than as provided for in the Act in which it was organized.

OCTOBER 24th, 1871.

Ordered by the Board of Supervisors, that the contract of Drew & Carroll, and other contracts for constructing levee in Levee District Number Five, be and the same is hereby extended to the first day of November, eighteen hundred and seventy-two.

Ordered, that the Assessor of Levee District Number Five proceed to complete his assessment immediately, and make his returns pursuant to law.

Ordered by the Board, that Clerk give notice that the Supervisors will, on first Monday of November, eighteen hundred and seventy-one,

meet as a Board of Equalization, to equalize property assessed in Levee District Number Five, pursuant to law.

NOVEMBER 8th, 1871.

It is ordered, that this Board petition the Hon. I. H. Craddock, County Judge of Sutter County, to appoint three disinterested persons appraisers, to assess the damages arising from the taking of so much of a certain parcel of land of which one Andrew Tripp claims to own, or so much thereof as shall be necessary for building, constructing, and maintaining a levee across and on and over said land, and that upon the coming in of the report of such appraisers, the said land, or so much thereof as shall be necessary for such levee, and for supplying earth and material therefor, may be condemned and set apart to public use, and for the uses and purposes aforesaid. And it is further ordered, that the President of this Board be and he is hereby authorized and instructed to make such petition in the name of this Board.

NOVEMBER 9th, 1871.

The Assessor of Levee District Number Five not having completed his assessment roll for said district, it is therefore ordered that the Assessor of said Levee District Number Five proceed to complete said assessment roll immediately, and deliver the same to the County Auditor, and that the Auditor give notice by publication, as required by law, that this Board will meet on the eighteenth of November, eighteen hundred and seventy-one, to equalize said tax.

In the matter of the petition of citizens to change boundary line of Levee Number Five.

This matter coming on to be heard, and the Board having been advised in the premises, orders that the petition of citizens for the changing of the segregation line, or boundary, of Levee Number Five, be and the same is hereby rejected.

SATURDAY, November 18th, 1871.

Board met pursuant to adjournment.

Ordered by the Board, that the Assessor of Levee District Number Five be given until the sixth day of December, eighteen hundred and seventy-one, to complete the assessment roll of said district, and that the Clerk give notice that this Board will convene on that day to equalize the same.

BOARD OF SUPERVISORS, }
December 6th, 1871. }

[As yet of the November Term.]

It is ordered by the Board, that the Clerk give notice, by publication in the *Sutter Banner*, that the Board of Supervisors of Sutter County

will meet on Friday, December fifteenth, A. D. eighteen hundred and seventy-one, as a Board of Equalization, to equalize the assessment of all property in Levee District Number Five, for the year eighteen hundred and seventy-one, and will continue in session from day to day, until all complaints relative thereto are heard and determined, when and where all persons interested may appear, if they think proper.

Ordered by the Board, that the following report of J. T. Pennington, County Surveyor, relative to a portion of levee in Levee District Number Five, of Sutter County, be and the same is hereby adopted, viz:

To the Honorable Board of Supervisors of Sutter County:

GENTLEMEN: That portion of the levee for the protection of Levee District Number Five from overflow, from the base of Butte Mountain to the Sacramento River, has been completed, and no provisions having been made for the protection of the levee from the action of the waves during the high water, and it being indispensable that something should be done without delay, as a rise in the Sacramento River or Butte Creek might at any time be expected, I directed Mr. Curtis, who had been a superintendent for Messrs. Drew & Carroll, to thatch the upper side of the most exposed parts of said levee with willow, or other available material, in such manner as to resist the action of the waves during overflow.

I take the liberty, also, of suggesting to your honorable body the necessity of appointing some competent person, with power to employ such assistants, to take charge of the above portion of levee during the coming Winter, in order that the same may be properly guarded from breaks and the many casualties to which such works are exposed during the season of high water. The work has been constructed at a great cost, and should not be lost through negligence.

The undersigned, as engineer of the levee, is intimately acquainted with its construction and wants, and should your honorable body place it under his charge during the present Winter, he will faithfully perform the duties of protecting it to the best of his ability.

Respectfully submitted.

J. T. PENNINGTON,
County Surveyor.

And it is further ordered, that J. T. Pennington, County Surveyor, be and he is hereby appointed to take charge of and superintend the portion of levee above referred to during the present Winter, in protecting it from overflow.

DECEMBER 15th, 1871.

Present—A full Board.

Ordered by the Board, after due consideration, and having fully understood the report or statement of J. T. Pennington, County Surveyor, and Engineer of Levee District Number Five, relative to the boundary or segregation line on the west side of Levee District Number Five, and the statements of parties interested claiming they were not; and the said report showing that the said parties were not in the boundaries of said Levee District Number Five, and not subject to taxation therein, and it appearing that they had been assessed in said district, it is, therefore, ordered by the Board, that the assessment on all property assessed to the following named persons for levee purposes, in Levee District

Number Five, be and the same is hereby declared remitted entirely and they declared without the limits of said district, viz: J. G. Holloway, G. M. Aten, B. M. Green, C. B. Green, F. W. Reece, Stephen Weigers.

Ordered by the Board, that the Assessor value the personal property assessed to Thomas Kimball for Levee District Number Five, for eighteen hundred and seventy-one, be rendered four hundred dollars, and that the number of acres assessed to him be increased one thousand and seventy-nine acres, it having appeared that he was not assessed to the full amount of land owned by him, as appears by his own statement.

Ordered by the Board, that J. T. Pennington proceed to make a map or plat showing the exact west boundary of Levee District Number Five, through what sections, townships, etc., the same passes.

Ordered by the Board, the following report of J. T. Pennington, County Surveyor and Engineer of Levee District Number Five, viz:

To the Honorable Board of Supervisors of Sutter County:

GENTLEMEN: I herewith report to your honorable body the result of an agreement made to-day, between interested parties, relative to the construction of a portion of the boundaries of Levee District Number Five, in township twelve north, range two east, which is as follows:

To begin at the point where the railroad crosses the south boundary of section thirty-five, and run thence east to the quarter section corner between sections thirty-five and two, in township eleven north, range two east; and run thence north one hundred and twenty chains to the centre of section twenty-six; thence west twenty chains; thence north twenty chains; thence west twenty chains to the line between sections twenty-six and twenty-seven; thence north twenty chains, to the corner, to sections twenty-two, twenty-three, twenty-six, and twenty-seven; thence west forty chains; thence north twenty chains; thence west twenty chains; thence north twenty chains; thence west twenty chains to the quarter section corner between sections twenty-one and twenty two; thence north twenty chains to the State segregation line; and thence, following the same northerly, to Butte Slough.

Respectfully submitted.

J. T. PENNINGTON,
County Surveyor.

YUBA CITY, December 15th, 1871.

—Be and the same is hereby adopted and filed.

Ordered by the Board, that the tax assessed to N. P. Bostwick, for purposes of Levee District Number Five, be and the same is hereby remitted upon all lands assessed to him except forty (40) acres.

—
BOARD OF SUPERVISORS SUTTER COUNTY, }
December 16th, A. D. 1871. }

In the matter of B. F. Johnston, assessed in Levee Number Five.

It appearing to the satisfaction of the Board that the property assessed to B. F. Johnston, for Levee District Number Five, is within the boundaries of Levee District Number One, and has been assessed,

and the tax collected therein, for eighteen hundred and seventy-one and previous;

It is therefore ordered, that the whole tax so assessed to B. F. Johnston for District Number Five, be and the same is hereby remitted entirely.

And it is hereby further ordered, that all levee taxes assessed in Levee District Number Five (5), upon real estate situated in Levee District Number One (1), be and the same are hereby remitted.

Ordered by the Board, that Samuel Brannan's tax, as assessed to him in Levee District Number Five, for eighteen hundred and seventy-one, be reduced as follows: upon real estate and improvements, in the sum of seven hundred and fifty dollars.

BOARD OF SUPERVISORS SUTTER COUNTY, }
Tuesday, February 6th, A. D. 1871. }

Ordered by the Board, that the report of T. W. Reece, Assistant Engineer of Levee District Number Five (5), relative to the breaking and present condition of the Butte Slough levee, be accepted and placed on file.

THURSDAY, February 8th, A. D. 1872.

Ordered by the Board, that the services of T. W. Reece, Assistant Engineer of Levee District Number Five (5), be fixed at the rate of fifteen dollars per day from this date, payable from the Fund of Levee District Number Five (5).

WEDNESDAY, April 3d, 1872.

It is ordered by the Board, that the Engineer of Levee District Number Five be and he is hereby required to file, with the Clerk of this Board, additional estimates of the costs sufficient to complete the reclamation of said Levee District, in accordance with the plans and specifications adopted by the Board.

SUPERVISORS, SUTTER COUNTY, CALIFORNIA, }
May 8th, 1872. }

It appearing to the satisfaction of the Board that T. W. Reece, the duly and legally appointed Assistant Engineer of Levee District Number Five, in and for Sutter County, has rendered and filed an estimate for the construction of work of reclamation in said district, and it further appearing that there are warrants outstanding against said District Number Five;

It is hereby ordered by the Board, that a notice be published in the weekly *Sutter Banner*, a newspaper printed and published in said Sutter County, notifying the owners of land in said District Number Five to meet at the Court House of said county, in Yuba City, on Monday, the third day of June, eighteen hundred and seventy-two, at twelve o'clock

m. of said day, to determine whether the estimated cost of the work of reclamation shall be provided for by the issue of bonds in pursuance of an Act of the Legislature of the State of California entitled "An Act to provide for the funding of the indebtedness of the reclamation and levee districts of this State," passed March, eighteen hundred and seventy-two.

The following is the report of the engineer, estimating the probable costs for the completion of Levee Number Five reclamation, to wit:

YUBA CITY, May 7th, 1872.

To the Honorable Board of Supervisors of Sutter County:

In accordance with your order, requesting the Engineer of Levee District Number Five to furnish additional estimates for the completion of the work of reclamation in said district, I most respectfully report the following estimated cost of the entire reclamation:

Sixteen miles of levee, 448,000 cubic yards, at thirty cents...	\$134,400
Forty-six miles of levee, 707,000 cubic yards, at thirty cents.	212,106
One mile of levee, 100,000 cubic yards, at thirty cents.....	30,000
Extra haul, 80,000 cubic yards, at fifty cents.....	40,000
One gate in Butte Levee.....	12,000
One gate in Sacramento Slough	10,000
One gate in Feather River Slough.....	9,000
Extra haul at Sacramento and Feather Slough.....	16,000
Engineering and contingent expenses.....	10,000
Amount already expended.....	144,478
Making the total estimated cost of the entire reclamation..	\$617,984

THOMAS W. REECE,
Assistant Engineer.

It is ordered by the Board, that the bonds of M. G. Lee and John O. Mahoney, contractors for the building and completion of certain portions of levee in Levee District Number Five, be and the same is hereby approved.

JUNE 3d, 1872.

The Board of Supervisors, in and for Sutter County.

In the matter of an election and meeting of the land owners in Levee District Number Five, of Sutter County.

In pursuance of a previous notice to the land owners of Levee District Number Five, and of election to determine whether bonds shall be issued for the payment of the outstanding indebtedness and estimated cost of reclamation of said Levee District Number Five, an election was held on Monday, the third day of June, eighteen hundred and seventy-two, at Yuba City, the county seat of Sutter County, at the rooms of the Board of Supervisors, D. O'Mahoney, Chairman of the Board of

Supervisors, acting as President, and J. M. Thomas, Clerk of said Board, acting as Secretary of said meeting. The question whether the present indebtedness and estimated cost of reclamation of Levee District Number Five, of Sutter County, shall be provided for by the issuance of bonds, in pursuance of an Act of the Legislature to provide for the funding of the indebtedness of the reclamation and levee district of the State, approved March thirtieth, eighteen hundred and seventy-two, having been stated by the President of the meeting, a vote was had, with the following result:

Names.	Votes.
G. M. Eshuger, 40 acres, affirmatively.....	40
John Middleton (Parks, attorney), 11,880 acres, affirmatively..	11,880
G. W. Middleton (Parks, attorney), 280 acres, affirmatively.....	280
W. H. & R. F. Parks, 16,904 acres, affirmatively.....	16,904
G. D. Roberts (Parks, attorney), 31,220 acres, affirmatively.....	31,220
John Hanson, 1,000 acres, affirmatively	1,000
D. O'Mahoney, 158 acres, affirmatively	158
S. J. Stabley, 5,200 acres, affirmatively.....	5,200
W. F. Nelson, 1,300 acres, affirmatively.. ..	1,300
T. J. Compton, 60 acres, affirmatively.....	60
W. P. Ink, 1,560 acres, affirmatively.....	1,560
O. H. Newton, 480 acres, affirmatively.....	480
Total.....	70,082

Whereupon, it appearing that a majority of the acres in the district was represented, and unanimously voted in favor of funding, the President of the meeting declared the proposition of funding the indebtedness and estimated cost of reclamation of said levee district carried.

D. O'MAHONEY,

President of the meeting.

Attest: J. M. THOMAS,

Clerk of said Board, acting as Secretary of the meeting.

It is ordered by the Board of Supervisors of Sutter County, California, that S. E. Wilson, J. H. Esselstyn, and T. B. Hull be and they are hereby appointed "Assessment Commissioners" of Levee District Number Five, of Sutter County, in pursuance of an Act of the Legislature passed March thirtieth, eighteen hundred and seventy-two, providing and authorizing the same. And it is further ordered, that they be allowed a salary of five (5) dollars per day for their services for each and every day necessarily employed.

MONDAY, December 2d, 1872.

Board met pursuant to adjournment.

In the matter of the report of Thomas W. Reece, Engineer of Levee District Number Five, of Sutter County:

It is ordered by the Board, that the report of Thomas W. Reece, Engineer of Levee District Number Five, be and the same is hereby accepted and placed on file.

And it is further ordered, that the sum of twenty thousand nine hundred and seventy-one dollars and fifty cents, the amount reported by Mr. Reece to be due Mr. W. H. Parks, for labor done and performed by him on levee in Levee District Number Five, be and the same is hereby allowed to W. H. Parks, payable in warrants upon said Levee Fund of District Number Five.

It is further ordered, upon a showing being made to the satisfaction of this Board, that the Clerk of this Board serve a notice upon the Sheriff of this county, and send by mail notice to the Sheriff of Colusa County, directing and requesting them to take all legal means to protect Levee District Number Five, i. e., the levy and embankments therein, and particularly Butte Slough, from being cut or damaged, and notifying them that a secret organization has been formed, and was still in existence, for the purpose of cutting, breaking, and damaging said levee, composed of persons residing in Sutter and Colusa Counties, and requesting them to acknowledge the receipt of such notice.

It is further ordered, that Thomas W. Reece be and he is hereby appointed Superintendent of the Levee in District Number Five, along Sacramento River and Butte Slough.

It is ordered by the Board, that the Clerk of this Board transmit the following certificate to the Register of the State Land Office, at Sacramento, California:

We, the Board of Supervisors of Sutter County, California, do hereby certify that the sum of two dollars per acre, in gold coin, has been expended in works of reclamation in Levee District Number Five (5), of Sutter County, California; we do further certify, that the boundaries of said district have not been changed since its organization, did not, nor does not now, embrace any territory that is included in any reclamation district having outstanding Controller's warrants.

YUBA CITY, Sutter County, California, August 20th, 1873.

G. E. BRITTAIN, Chairman.
W. H. PERDUE, Supervisor.

STATE OF CALIFORNIA, }
County of Sutter. }

I, J. M. Thomas, County Clerk and ex officio Clerk of the Board of Supervisors of Sutter County, do hereby certify that the above are true, full, and correct copies of orders of the Board of Supervisors, as the same appears upon the record of the minutes of said Board, now in my office.

Witness my hand and official seal, this 29th day of September,
A. D. 1873.

{
SEAL
}

J. M. THOMAS, Clerk.

EXHIBIT 1.

Claims allowed on Number Five.

December 1st, 1873.	
Geo. Masten, labor.....	\$117
Thos. W. Reece, Engineer.....	1,350
W. H. Parks, building levee.....	96,796
P. C. Drescher, Engineer.....	172
September 17th, 1873.	
W. H. Parks, building levee.....	6,000
W. H. Parks, building levee.....	10,160
W. H. Parks, building levee.....	6,211
Thos. W. Reece, Engineer	9,004
Geo. Mastern	152
August 20th, 1873.	
W. H. Parks, building levee.....	15,151
W. H. Parks, building levee.....	26,812
Drescher, Jr., Assistant Engineer.....	28
Geo. B. Drescher.....	72
P. E. Drescher.....	502

Bills of Parks in Number Five.

	\$75,881
	5,965
	15,151
	92,636
Total.....	\$189,633

TENTH MEETING.

MONDAY, March 9th, 1874.

Present — Messrs. Parker, Kercheval, Hammitt, Finney, and McMurry.

TESTIMONY OF WILLIAM H. PARKS.

WILLIAM H. PARKS, called, sworn, and examined:

Mr. Finney—You are well acquainted with matters in the Fifth Reclamation District, are you not?

Answer—Yes, sir; I am interested in the matter, and have been active in it since its organization.

Question—About how much land is claimed as proper reclamation land in that district?

A.—Before the passage of the bill which passed the Legislature a few days ago there were one hundred and three thousand acres, in round numbers, in the district, but that bill strikes out about five thousand acres.

Q.—Those five thousand acres are Wilcoxon's?

A.—Yes, sir; and there is left about ninety-eight thousand acres, in round numbers, in the district.

Q.—Is there any of the land in this district that is actually arable, dry land?

A.—No, sir.

Q.—None at all?

A.—Not an acre, to my knowledge.

Q.—How much levee has been built in the district?

A.—I can count you the exact miles, if you will allow me to, sir. [Witness produces a map similar to the lithographed map produced by Wilbur.] Here is a map showing the district. We have built nine miles along here, and four miles here [showing]. At that place the levee is very heavy, being twenty feet high. That levee was within about two weeks of completion—say, perhaps, altogether it is within one thousand feet, at the outside—when the water came on us. Then, we have built that levee across there [showing] two different times. This is very heavy levee here; it is twenty-one feet high across there, and about eleven feet up there [showing]. I think there is about two miles and a half of it there. I think that is as much as thirty feet high in that slough here; but this across there [showing] is twenty-one feet there, and runs out to nothing here. That we have built twice.

Q.—Is that levee still remaining entire?

A.—About seven or eight hundred feet of it broke right in there [showing] this season; but the rest of it is all right.

Q.—Is there any levee on this river [the Sacramento River]?

A.—We built nothing on there.

Q.—Then you have between fifteen and sixteen miles of levee, altogether?

A.—Yes, sir.

Q.—Who took the contract for this work?

A.—The contract was first let to a firm by the name of Drew & Carroll.

Q.—They took the whole contract?

A.—They took the contract for the whole, with the exception of probably two or three miles up and down here [showing], that was taken by the farmers living along here. Drew was a brother to N. L. Drew, of this city, and Carroll had a brother here who was worth money; and Drew & Carroll, when they took the contract, made arrangements with their brothers to give them half their profits if they would furnish the money necessary to perform the work; but when they got ready to go to work certain controversies arose in the district, and the brothers declined to furnish the money; then I came in with Roberts, and we furnished the money that Fall to complete that levee around there [showing].

Q.—You furnished the money to pay the expenses?

A.—Yes, sir. Then Drew & Carroll built along here [showing], altogether, about three miles. Then these farmers who had taken contracts found themselves in the same fix that Drew & Carroll were in; they could not pay the expenses for getting the work done; and I came in, as I had with Drew & Carroll, and furnished the money, and took their scrip.

Q.—What was the district that the farmers took?

A.—I think it was two miles and a half that the farmers took altogether. I think that Mr. Lee had a mile, and Mr. Heyland had half a mile, and Murphy, or Brooks, had another half mile.

Q.—The whole job for building the remainder was let to Drew & Carroll?

A.—All the remainder was let to them. It was arranged that if the farmers wanted contracts for constructing the levee which was built over their lands, they should have the preference, at the same price that others should bid; and these farmers who bid were the owners of the land over which the work they bid for was to be done. Drew & Carroll bid with the understanding that if any farmer bid the same price that they did, the farmer would be given the contract. There was a contract for building some of the levee up here to Bainbridge, but they got into a controversy there and he never built any levee over there.

Q.—At what price was the contract let to Drew & Carroll?

A.—For thirty cents for all where the dirt was put in with plows and wheelbarrows, and for fifty cents where it was put in with carts. This over here on this slough had to be put in with carts.

Q.—For how much was it let to the farmers?

A.—Twenty-eight or twenty-eight and one half cents; twenty-eight, I think.

Q.—Were contracts ever let to any other persons at any other time, for less than thirty to fifty cents, with the exception of those let to the farmers?

A.—No, sir.

Q.—You had to let Drew & Carroll have the money; what was your security for it?

A.—We took the scrip.

Q.—That is, swamp land scrip?

A.—Yes, sir. Now, perhaps, I had better preface this; we organized under a special Act for Sutter County; we were to be paid in scrip upon the Fund, and of course we had to look at how long it would be likely to be before it would be paid. The law limited the amount we could

tax the county to two per cent of the value of all the property; and the district was not thickly settled, and there was very little personal property in it, so that nearly all the taxable property was land. There are very few persons living right along here [showing]; and just outside, here in this district [showing], are these men that are making complaints.

Q.—How did you receive this scrip; direct from the Board?

A.—No, sir. The accounts were audited and allowed to Drew & Carroll, and they drew the scrip, or I drew it upon an order signed by Drew, he being there personally when the work was first begun; but he was taken ill with a very lame arm, which he afterwards had to have amputated, and then he gave me a power of attorney to draw the scrip.

Q.—You say all those accounts were audited by the Board of Supervisors of Sutter County?

A.—Yes, sir, always—upon the report of the engineers.

Q.—To whom was it audited?

A.—To Drew & Carroll, and they subsequently assigned it to me. The first year it was all audited to Drew & Carroll.

Q.—But afterwards it was audited to you?

A.—Afterwards it was audited to me, as assignee of Drew & Carroll.

Q.—How much did you receive in all for levee work?

A.—I don't think I can answer you that question; I will answer it very nearly. Mr. Roberts took fifty thousand dollars of Drew & Carroll's first account. I cannot answer how much passed through my hands. I was not able to carry so much as the whole of it; but I negotiated with other parties who took some of it. I can only tell you this, that when we got through, the bill, including the two year's interest, or pretty near two year's interest, which was due at the time the bonds were issued, and including the pay of the engineers, was, in round numbers, about two hundred thousand dollars.

Q.—How were the engineers paid; did they receive salaries?

A.—The law fixed the salary of the engineer of the district at five dollars a day; and he could not receive any more, and did not.

Q.—Did the law make the County Surveyor the ex officio engineer of the district?

A.—Yes, sir; and I don't think he ever had a bill audited for more than five dollars a day. But he was allowed an assistant, and the assistant was paid fifteen dollars a day in scrip, which was calculated to be worth about seven dollars and fifty cents a day in coin.

Q.—It appears that one of the engineers received at one time ten thousand dollars for services.

A.—He didn't do anything of the kind. I will tell you all about that. There was a culvert to be put in here [showing], and it was a very peculiar and difficult thing to do. It is one hundred and twenty feet long, with an arch six feet high, with cast iron doors (?) and wrought iron frames, and the culvert built of brick, and is every way made of the most solid material. The Board was afraid to let this by contract, as it was a very difficult and important job, and they authorized the engineer to put that in there, and present to them the vouchers for the material and the labor done; and he did so, and I paid the money for the scrip myself.

Q.—What was the whole amount paid him?

A.—It was nine thousand and eight dollars, it seems to me, or nine thousand and eighty dollars—something like that, and the amount paid

for material, and for performing the work, was given in one bill. I got that scrip myself; I cannot tell just how much the amount of the bill was, but it was between nine thousand and ten thousand dollars.

Q.—Have you any means of knowing what is the number of cubic yards of dirt that have been deposited in this levee?

A.—It can be told from the accounts on file in the Supervisors' office. I recollect this: We let a sub-contract this season, and we paid for something near eighty thousand yards of dirt, in round numbers, that was deposited here [showing].

Mr. McMurry—That was a portion that had been washed away?

A.—Yes, sir. Here is where the levee was cut, and it washed away right along here [showing]. That was cut at the place where it was the strongest, and the first year's work was almost entirely lost, as we had to build it over again. The district would have been reclaimed for a much less amount than has been expended if this had not been disturbed. But the levee is all built up again. It has settled a good deal, but this up here remains intact, except two hundred or three hundred feet that has broken about here [showing].

Mr. Finney—You say there were no contracts let for a less sum than twenty-eight cents per cubic yard, and those were let to the farmers?

A.—I think the contract let to Bainbridge was for about twenty-five cents per cubic yard, but it was never performed.

Q.—This contract of Drew & Carroll was at the sum of thirty to fifty cents per yard, according to the work?

A.—Yes, sir. Now, for this part of the levee here [showing], although we put the dirt in with carts, we only got thirty cents a yard. I think I could have come in and claimed that I was entitled to fifty cents for that; but being anxious to have it finished, we concluded that we had better not lose any time, but try and put it up before the rain set in; and we did so. I think that from any fair construction of the contract any contractor would say we were entitled to fifty cents for that. It might be done with wheelbarrows, but we could do it cheaper with carts.

Mr. Kercheval—You had some considerable levee built, did you not, before this Act of eighteen hundred and seventy-two?

A.—Yes, sir; we had this built then [showing].

Q.—How had you done that; on a cash system?

A.—We drew warrants on the Fund for that.

Q.—Then these warrants were funded, and bonds issued for them at par?

A.—Yes, sir; that is just it exactly, with the interest included.

Q.—You spoke of having your levee along here. Your scheme of reclamation was to construct a levee across here [showing], along here, and here. Now, I want to ask this: What precaution have you against overflow when the water rises, unless you have a continuous levee along the river here?

A.—Well, they didn't seem to fear anything of that kind. If we had carried out the first plan there would have been no trouble; but subsequent to the adoption of the plan, this opposition grew until it became violent, and these men felt aggrieved because we had included them within the district. They came before the Board of Supervisors, represented by a committee, of which Judge Hurlburt, now in the House, was the Chairman, and they said: "We have no objection to your reclaiming your own land, but we don't want anything to do with you." I said to them: "I should be ashamed to leave you out, because it would leave you between two rivers, or in the river, but if it is your desire, and you will

give us five days (I think that was the time we asked) to get a petition up, we will get one up for the altering of the district." So the Board then moved to reconsider, as you would in the Senate or Assembly, the vote by which the district was organized; and with this committee we fixed up a compromise, that we should follow this segregation line here [showing], and leave these men out. We took the five days and got the petition, and the boundaries of the district were changed so as to leave them out according to the agreement. This man, Mr. Wilbur, who was before you here, was the man that wrote this petition. Then the question was raised concerning the authority of the Board to make this change after the district had once been organized; but I said, "If you agree and we agree there will be no trouble in having the Legislature ratify the action of the Board, and we will favor such legislation." But that little point in there is Colusa County, and they would not give us the right of way, and we changed our plans, and concluded to build along here and leave that off. That made all harmonious, as we supposed. We found then that we could build it considerably cheaper on the river.

Mr. Finney—Is this high land arable land naturally?

A.—I will tell you how this land is: It takes a levee of about eighteen inches to two feet, and the high land along there is not continuous for over twenty or thirty rods—that is along the Sacramento River. I don't think there is any of this land but what overflows at the highest water; the high water this season nearly covered it. Every farmer has got little levees here, and these are the very men who created this opposition; and after having paid so much additional money, more than we anticipated, for having had to rebuild this levee where it was cut, we hardly feel able to build along there, and we have to depend on the farmers for protecting that. It is barely possible that this may be overflowed here for a few years. There is no slough flowing out on this side at all, but there are several on the other.

Q.—Mr. Parks, did you receive, in December, eighteen hundred and seventy-three, any money for building levee from this district?

A.—Never, a dollar; nor no other time.

Q.—You never received any?

A.—None at all; all I ever received in the world was in scrip.

Q.—Does what you received appear on the records of Sutter County?

A.—Every dollar has been paid upon the report of the engineers of the amount of work done, and the vouchers are filed there, and were given under oath. Not a dollar; I will go further, and say that I have never made a bill against the district myself, nor put a bill in for a quarter of a dollar's worth of work in my life.

Q.—You never received, then, at one time, ninety-six thousand dollars for building levee?

A.—No, sir; nor no other sum of money.

Q.—At no time?

A.—Not ninety-six dollars, nor ninety-six cents, or any other sum.

Q.—In scrip, or any other form?

A.—Yes, sir; in scrip, more than that, I think.

Q.—About the first of December?

A.—Yes, sir; I guess it was just about that time; ninety-three thousand dollars, about, I think it was. That was for this cross levee, here.

Q.—Did you, in September, receive any scrip?

A.—You see if I had known what you wanted me to testify about, I could have been prepared to answer. I think more than probable I did,

in September. The amount I cannot tell, exactly. It appears to me that the last amount allowed was something like ninety-three thousand dollars or ninety-six thousand dollars.

Mr. Kercheval—What is the size of this levee here [showing]?

A.—That is a twenty-foot levee; it averages that.

Mr. Finney—Then this amount you received in scrip?

A.—Yes, sir; it was issued in accordance with the returns made by the engineers, and it made no difference to me whether it was one yard or a thousand, because we were not making a quarter of a dollar on it; and the more the Chinamen got per yard the more it was out of my pocket.

Q.—We are investigating this matter, Mr. Parks, and I will ask you the plain direct question: Did you ever take any contracts indirectly for any of this work?

A.—Never in my life.

Q.—No other person ever took any contract on your behalf, or in which you received a share?

A.—Never. Drew & Carroll took this contract, and I engaged with them to pay their bills. Carroll retired from the firm, and Drew carried the work on alone, and I made the amount that I paid out a personal account against him. When he fetched in his bill to the Board, I settled up with him, and took the scrip at fifty cents on a dollar.

Q.—There has been, then, to your personal knowledge, no contracts sublet?

A.—Yes, sir. These contracts were first sublet to Chinamen. The contract of Drew & Carroll was transferred to me. Mr. Carroll had transferred his share of the contract to Drew, and Drew was sick and about to die, and he said to me: "Mr. Parks, I would like to put part of this in your hands and have you help me through with it." I said I would. He was expecting to die, and was anxious to have something left to his family; and I said: "Now, Mr. Drew, you are going to die, in my opinion, and the best way for you to do will be to assign your half and leave it with your wife or anybody you like, and let her make such terms as she can with me;" and this Fall I sent her two thousand dollars, in accordance with the agreement I had had with her.

Q.—You took Drew & Carroll's contracts, then?

A.—I took their contracts as assignee of Drew & Carroll; but when they took the contract I had no idea of having anything to do with it, more than you have now; but they could not furnish the money to pay the expenses of performing the work, and these farmers could not, and I had to do it. But there has not been a day that I have not urged the farmers, or anybody else that I thought would do the work and take the scrip for it, to do so. This piece up here on Feather River [showing] was built by a man by the name of Hanson. He did the work and got his pay for it. His brother-in-law helped him, and they were paid for it in scrip. That I had nothing to do with.

Q.—You say you sublet this contract to Chinamen?

A.—I sublet it to Chinamen; yes, sir.

Q.—At what prices?

A.—This along here [showing] I let that for thirteen cents per cubic yard; this across here [showing] went from fifteen to eighteen cents.

Q.—That is about twenty feet high?

A.—Yes, sir; fifteen to twenty; and we furnished the wheelbarrows and wheeling plank. We have now one hundred and fifty wheel-

barrows, and a great amount of wheeling plank. At the rate we sold our bonds I think I made nothing on that.

Mr. McMurry—You paid them in cash?

A.—In cash; and furnished them the wheelbarrows and wheeling plank. For building the levee across there, our expense account was over seven thousand dollars in coin. Drescher is the engineer—he is the County Surveyor—and he attends to this down here. He was authorized to put a wooden gate in there. They have furnished four thousand one hundred dollars; but Drescher has never presented the account. This was washed away, and we have got nothing to show for it except our vouchers. The timbers are there, and we may be able to put it back, and eventually get our pay. Everybody has profited more by that work than I have. We had an agreement with the Reclamation Fund Commissioners, before the district was organized, that we should pay them two thousand five hundred dollars a year for the expenses of the office. Then there was the interest on two hundred thousand dollars, which would be sixteen thousand dollars more, making eighteen thousand five hundred dollars altogether, that we should be required to pay. At first they levied a tax which would amount to sixty thousand dollars, or seventy thousand dollars, and of course we were alarmed at such a tax as that. I wrote to Mr. Reed—or saw him—and said: “This is going to break us before we start in.” Then they began to figure up what they were going to require for their expenses. In the first place they were going to compel us to assume the interest of bonds that had never been issued, and they were allowing sixteen thousand dollars to nineteen thousand dollars for expenses. Well, we remonstrated, and claimed that they had no right to levy on us for bonds not issued.

Q.—They actually did levy for bonds not issued?

A.—Yes, sir, at that time; they made a mistake.

Q.—What is the value of the bonds issued by the Commission?

A.—Five hundred and seventeen thousand dollars. At that time there were two hundred thousand dollars, and it required sixteen thousand dollars to pay the interest. After discussing the question with them we called their attention to the fact that they had written us, in reply to our letter remonstrating against so large a tax, that Judge Sanderson had told them that the levy would not be legal unless they taxed us for all the law required, and would not be good for anything.

Q.—Do you know what have been the expenses of the Commission?

A.—I will tell you that pretty quick. After receiving that information, I went to see Judge Sanderson about eleven o'clock one night. He said he had not said anything of the kind, but had told them if they wanted their salaries, that was the only way they could get them; and he had nine hundred dollars for a fee himself, which he supposed he must get in that way or not at all.

Q.—Was his fee for writing that opinion?

A.—Oh, no; he attended to a case. I saw the Commissioners the next morning, and told them what Sanderson had said; and they then said that they could get their salaries in no other way than by levying the tax, and they were bound to levy it. Then they proposed to reduce the tax so that they would receive altogether thirty-two thousand dollars—sixteen thousand dollars for interest, and sixteen thousand dollars for expenses of the Commission. They say now that they have had thirteen months' pay, and the balance they have received from us has gone for expenses. The trouble was, it was expected that a great many

districts would come in and avail themselves of the provisions of the Act; but they failed to come. If they had come in, the expenses of the office being distributed among the districts, would not bear heavily on any of them; but now they have gone back on us, and take sixteen thousand dollars for their expenses. At the time we made the agreement with them they did not pretend to justify themselves for levying a sixteen thousand dollars tax on us for their expenses, except by saying that they could not get their salaries in any other way. They say that this agreement to take two thousand five hundred dollars for expenses, was but for one year; but suppose it was for only one year, that year extended only up to the first Monday of this March, and the next year has but just begun. But they have levied sixteen thousand dollars instead of two thousand five hundred dollars for the first year. We would rather let that pass, however, than to have this bill fail—the bill now before the Legislature to abolish the Commission and transfer their functions to the Supervisors.

TESTIMONY OF JOSEPH UNDERHILL.

JOSEPH UNDERHILL, called, sworn, and examined:

Mr. Kercheval—Mr. Underhill, you are the County Surveyor of Yolo County?

Answer—I have been.

Question—And are now, are you not?

A.—No, sir.

Q.—Have you done considerable surveying in that county, in Swamp Land District Number Eighteen?

A.—Yes, sir; considerable.

Q.—When applications for surveys have been made to you, I wish to know the course you pursue?

A.—Well, I generally go on the ground and make the survey.

Mr. Finney—You make an actual survey?

A.—Yes, sir; sometimes I do that. But say, for instance, I have made surveys for three or four different parties, and there should be a tract of land untaken which is surrounded by all these others which I have surveyed, that tract is already surveyed. I never charge for surveying.

Mr. McMurry—Just for the plat?

A.—Yes, sir; I just charge for the application and plat.

Mr. Kercheval—You did the principal part of the surveying in District Eighteen, did you not?

A.—Yes, sir.

Q.—You surveyed the original locations?

A.—Yes, sir; the principal part of them; although there are a great many tracts that have become vacant, and been surveyed since by other parties. I have myself surveyed some of them two or three times. I have made out applications two or three times over the same ground, you know. Some of the first locators didn't pay up the first payment, and the lands became vacant according to law.

Q.—Then did you go on the ground and make a second survey?

A.—No, sir.

Q.—If you had surveyed the meandering banks of a stream, and knew all the courses and distances along the shore, what method would you pursue in making a survey of a tract of land bordering on that shore, no lines but the shore line having ever been surveyed?

A.—Well, I would make the calculations of the whole survey.

Q.—Without going on the ground?

A.—Yes, sir.

Q.—And consider that a legal survey?

A.—Yes, sir. The first settlers in this (Yolo) county took up land for ranches to suit themselves, and the lines were run in all directions; and there was a law passed to survey this land on the Sacramento River just as it had been taken up; and of the surveys made under that law I have all the field notes, with the courses and distances. There is a piece of land surrounded by lines that I have run, and a man comes and applies for that piece; I have to make the calculations from the surveys that I have made previously, and I can tell to the hundredth part of an acre what there is in a tract of one hundred thousand acres; and if I should have lost any of the field notes, I could come right here to the Surveyor General's office and get them.

Q.—How would you do in case the back lines of a tract had not been run?

A.—I would have to run them.

Q.—Where you had simply meandered the stream, how could you run the other lines without an actual survey?

A.—I would have to run three lines, of course, and then I could calculate the fourth.

Q.—Did you plat a large tract for Roberts up there?

A.—Yes, sir; I platted it and made the calculations.

Q.—You did that without going on the ground?

A.—I did that without going on the ground.

Q.—How far down did you go—any farther than what is in Yolo County?

A.—It may be possible I went across the line a very short distance.

Q.—There is a disagreement about the county lines, isn't there?

A.—Yes, sir.

Q.—Don't you know that there are some surveys in Yolo County so inaccurate that the farmers are likely to lose their farms—Kuyhagan, for instance?

A.—Twelve or fifteen years ago, while I was County Surveyor, I surveyed the land of Patrick Nolan and Jim Ryan; and the land was all in Yolo County when I surveyed it for them; and, afterwards, a Solano County Surveyor came up there to survey a road, and he made the county line three or four miles further up than I did. This Kuyhagan had a mortgage on Ryan's place, and he foreclosed it and took the place; he claimed that the county line had been moved, which, of course, it had not; and Nolan made claim to the land, and they left it to me to settle the matter, and I surveyed it over again and settled the dispute.

Mr. McMurry—Was it proved that Kuyhagan's land was in Solano County?

A.—He is in Yolo County; but he has paid his taxes in Solano County, because this County Surveyor had determined that the land was in that county. The great difficulty is, the township line from the east, and the meridian line from the west, do not meet within half a mile here.

Q.—That is because the surveyors shirked their duty when they were running the survey lines.

A.—Yes, sir.

ELEVENTH MEETING.

THURSDAY, March 12th, 1874—7½ o'clock P. M.

Present—Messrs. Finney, Kercheval, and Hammitt.

W. R. Cantwell, Police Judge of Sacramento, and O. C. Carroll, formerly of the firm of Drew & Carroll, who took the contracts for doing the reclamation work in Levee District Number Five, were examined as witnesses; but their evidence was not considered by the committee of sufficient importance to be written out, and the reporter was directed to leave it out of his transcript of the testimony.

TWELFTH MEETING.

MONDAY, March 16th, 1874—7 o'clock P. M.

Present—Ferguson, Chairman, and Messrs. Finney, Lindsey, McMurry, Parker, and Hammitt.

EXECUTIVE SESSION.

Mr. Parker presented a petition from the citizens of Humboldt County, asking an investigation into the matter of an application for swamp land in that county, by J. W. C. Coleman, and Mr. Parker was deputed to examine into the matter.

This petition is signed by seventy-four persons, and reads as follows:

To the honorable the Senate and Assembly of the State of California:

The undersigned citizens of Humboldt County, in the State of California, respectfully represent to your honorable bodies that there are in said Humboldt County large quantities of swamp and overflowed lands, which we believe susceptible of reclamation, and that when so reclaimed the said lands will be of great value; •

That many of our citizens desire to purchase parcels of said land from the State, and to reclaim the same;

That on or about the ninth of March, eighteen hundred and seventy-one, one J. W. C. Coleman, of Sacramento County, California, filed an application to purchase about nine thousand acres of said swamp and overflowed lands lying in said Humboldt County;

That since the filing of said application, your petitioners believe that, excepting about two thousand acres, which has been recently acted on, no steps have been taken to complete the purchase of said lands by said Coleman, nor has the survey thereof been approved as by law re-

quired, nor has any action been taken in the premises other than is above set forth;

Therefore, your petitioners ask that an investigation be at once had of the matters hereinbefore referred to, to the end that all obstructions to the purchase of said lands be removed.

And they will ever pray.

Mr. Parker also presented affidavits from citizens of Inyo County, which form a portion of "Exhibit F" attached to this transcript, page 143.

THIRTEENTH MEETING.

SURVEYOR GENERAL'S OFFICE, }
Tuesday, March 17th, 1874—11 o'clock A. M. }

TESTIMONY OF ROBERT GARDNER—RECALLED.

Mr. Parker—Has J. W. C. Coleman, of Sacramento County, on file in your office an application to purchase nine thousand acres of swamp land in Humboldt County?

Answer—An application for about seven thousand acres of swamp land is on file in the name of Coleman. There never has been over that amount filed for by him since I have been in the office. When I came into the office, I found applications for a portion of this land, which were made in November, eighteen hundred and seventy-one, before the commencement of my term of office, and a portion of the applications were filed in March, eighteen hundred and seventy-two, which was after the commencement of my term. Before the applications were filed in March, eighteen hundred and seventy-two, several communications were received from residents of Humboldt County, parties living around Humboldt Bay, and around the mouth of Eel River, protesting against any action being taken on those surveys until they could file a protest. I found, on examination of the surveys, that they covered navigable sloughs which are used for logging, and also for freighting potatoes from the uplands. The protest was received; and on that protest I refused to approve of any of the applications, though the party in interest desired to have many of them approved. The reasons for not approving all the lands around Eel River are set forth in that protest. Up to that time, we supposed, at its mouth, Eel River was navigable for shipping, but since that time it has been demonstrated that it is not practicable for shipping, and I have approved a large portion of the surveys around Eel River; and the surveys that are not approved, a large portion of them are within two miles of the Towns of Arcata and Eureka, which, under the law, cannot be approved. Where they are within two miles of a city or town, they are not to be sold by the State. These navigable sloughs are not defined in the surveys.

TESTIMONY OF A. N. GUPTILL.

A. N. GUPTILL, called, sworn, and examined:

Mr. Parker—We want to get at a full and correct knowledge of the state of affairs in regard to this matter.

Answer—I think it was as early as March, eighteen hundred and seventy, A. D. Sevier, who was then Sheriff of Humboldt County, came into my office in Eureka with a bundle of applications, that were forwarded to him by Fairchild, of Siskiyou County, with the request that he would give them to the County Surveyor of Humboldt County. Mr. Murray, the County Surveyor, was absent at that time, and Sevier left them with me; and when Mr. Murray returned, I handed him the applications, and told him how I came by them. When I came into this office, I found some of them on file, and some of them were filed in March, eighteen hundred and seventy-two. I know Murray came down here in the Spring of eighteen hundred and seventy-two, and suppose he had them filed at that time. In the month of January—the last of January—it occurred to me that it might injure the bar if they undertook to reclaim the swamp lands around Humboldt Bay, and I consulted the people there on the matter, and they got up that protest against the approval of Coleman's applications. Then Mr. Russ introduced in the Assembly a bill withdrawing the land, and it passed there, but did not reach the Senate. When I went up there in the month of January, in section twenty-four, township six north, range one west, there was a vessel then loading in that slough, and that section is covered by one of the surveys of Coleman. It was a vessel that would carry about one hundred and eighty thousand feet of lumber, the usual size of vessels that run in Humboldt Bay. There is now a large steam mill built in that vicinity, and they ship all their lumber from that slough, as I am informed.

Q.—You state that these applications covering the slough have been rejected?

Mr. Gardner—They have not been approved, because they included these navigable sloughs.

Q.—What portion of the original applications now remains unapproved?

A.—Four thousand and seventy-two and eighty-nine one hundredths acres; the balance of it has been approved. The objection that was raised at that time we don't consider as having weight at this time, because the mouth of Eel River is now considered to be unnavigable; and we took up the applications, and approved everything that we thought could be or ought to be approved. And then a great many of these never can be approved, because they come within two miles of the Towns of Eureka or Arcata. This protest is signed by prominent men in Eureka, who are deeply interested in the welfare of the county.

Q.—How much of the lands included in the applications of Coleman remaining on file unapproved, would be approved if they were pressed now?

A.—None of them. When an application comes in, it goes into the hands of the Swamp Land Clerk, and the record shows whether there is any claim to it; and if there is no conflict, it can then be approved. If the Swamp Land Clerk finds there is any conflicting claim, or any rea-

son why the application should not be allowed or approved, he makes note of the reason.

Mr. Guptill—I don't suppose there is a month in the year when a vessel does not go up that slough, in section twenty-four, for produce or lumber.

Q.—What portion of Coleman's applications has been approved?

Mr. Gardner—About three thousand acres.

Q.—Has he complied with the law in regard to the payment of the fees of your office?

A.—There are no fees received in this office.

Q.—Did he file on this land for himself, or for somebody else who wanted it?

A.—That I don't know.

Q.—It appears, then, that all the swamp and overflowed lands in that region that title could be obtained to under the Act, is all embraced in these applications for seven thousand acres?

A.—No; these applications didn't take in nearly all of it; there are applications of outside parties that don't touch these lands at all. These lands nobody supposed to be of any value.

Mr. Guptill—I would not take the gift of them, and pay taxes on them.

Mr. Gardner—This protest was filed in February, eighteen hundred and seventy-two, while the Legislature was in session; and Mr. Russ introduced a bill in the House to withdraw these lands from sale. Mr. Russ was a member of the Assembly from Humboldt County at that session. About three thousand acres have been approved, and certificates of purchase have been issued on a little less than two thousand acres. The balance has been approved, but we have no evidence that payment has been made. I don't think there are over one thousand acres that can now be approved in any event, after the sloughs have been meandered, of the applications now remaining on file. I think the balance of it is a nullity, being within two miles of Arcata or Eureka.

Q.—Is it a custom to allow applications for swamp lands to lie unapproved for any length of time?

A.—No; I do not, except in case of conflict, or protest being filed, or when some other good reason appears.

Q.—The defect of the law seems to be that there is no time stipulated within which these swamp land applications shall be approved?

A.—No; there is no time stipulated in the law. The time of forfeiture ends fifty days from the date of the application. If payment is not made by that time, the lands revert to the State.

Q.—In regard to the Inyo County surveys, what has been your action as to approving those applications?

A.—I have really, in fact, rejected all the applications, and I simply let them remain on file, as I wanted the member from that county to see the evidence here. I propose sending them back to the county as soon as the Legislature adjourns, with my objection, which is on the ground that the State does not own the land, does not claim it, and does not propose to claim it; and that will be the last of it. It was my home, Humboldt County, and I am interested in the welfare of the county. These unapproved applications are a nullity on their face, because the law expressly says that no swamp lands that are within two miles of a city or town shall be sold; but the applications remain here, because there is no law requiring that they should be returned. The law may be repealed, or there may be some special legislation upon the matter,

which yet may make the applications good. I should have approved every application on file for swamp land that was not within two miles of a town and which was not covered by navigable sloughs, if that petition had not come in. I have approved eighteen hundred school land applications, which I found on file here upon my assuming my present office of Surveyor General.

FOURTEENTH MEETING.

TUESDAY, March 17th, 1874—7 o'clock P. M.

Present—Messrs. Lindsey, Finney, and McMurry.

A. W. McPherson was produced as a witness, but as the committee was not prepared to proceed with his examination, it was postponed to Wednesday evening, eighteenth instant.

On Wednesday evening no examination was held, Mr. McPherson having been excused by the committee.

FIFTEENTH MEETING.

FRIDAY, March 20th, 1874.

Present—A full committee.

J. P. Hawkins, C. P. Converse, and Grove L. Johnson were examined as witnesses; but as the committee deemed their testimony unimportant, the reporter was instructed to omit it from his transcript.

SIXTEENTH MEETING.

SATURDAY, March 21st, 1874—10 o'clock A. M.

Present—Ferguson, Chairman, and Messrs. Finney, Lindsey, McMurry, Kercheval, and Hammitt.

EXECUTIVE SESSION.

The meeting having been called to order by the Chairman, upon the motion of Mr. McMurry, the testimony before the committee was declared closed.

The Chairman, by request, moved that the testimony of Mr. Chapman, given before the Land Monopoly Committee, be embodied in the report of this committee, but the motion received no second, and was lost.

Mr. Lindsey, at the request of Mr. Chapman, moved that he (Chapman) be allowed to testify before the committee, but receiving no second, the motion was lost.

Mr. Lindsey moved that the bill introduced by Mr. Finney in the Senate, for the appointment of a committee to continue the investigation of this committee and the Land Monopoly Committee, receive the recommendation and support of the committee. Seconded and carried.

Mr. McMurry, on the part of the Senators who are members of the committee, moved that Mr. Finney be requested to consult with the Chairman in reference to the report to be rendered by the committee. Seconded and carried.

The committee then adjourned.

"EXHIBIT F."

The following is a copy of one of the affidavits by citizens of Inyo County, presented by Mr. Parker:

STATE OF CALIFORNIA, }
County of Inyo. }

Oliver Cromwell, being duly sworn, deposes and says: I am a white male citizen of the United States, over the age of twenty-one years; a farmer by occupation, and have resided for four years and eight months on the northeast quarter of section number thirty-one, township number six south, range number thirty-three east, Mt. Diablo base and meridian, in Inyo County, California, which said land I claim as a homestead under the laws of the United States. I am well acquainted with the land in said tract, and also of the remainder of said section of which said tract is a part; and said tract, and adjoining, is agricultural land, and will produce, without reclamation, by proper irrigation and farming, annual crops of wheat, barley, oats, corn, and various kinds of vegetables.

(Signed:)

OLIVER CROMWELL.

Subscribed and sworn to before me, this eighteenth day of February, A. D. eighteen hundred and seventy-four.

CHARLES J. WALCOTT,
Justice of the Peace, Fourth Township.

Affidavits identical with the above, with the exception of names, dates, and descriptions, are made by the following parties:

John Clarke, who has resided for nine years on the south half of section number seven, township number seven south, range thirty-three east, and claimed the land on patent.

Joel Smith, who has resided for seven years on the northeast quarter of section number one, township number seven south, range thirty-two east, and claims the land as a homestead.

Cyrus H. Powers, who has resided for four years on the northeast

quarter of section twelve, township seven south, range thirty-two east, and claims the land as a homestead.

Robert W. Ford, who has resided for three years on the northwest quarter of section twelve, township number seven south, range thirty-two east, and claims the land as a homestead.

George Collins, who has resided for four years on the northwest quarter of section thirty-one, township six south, range thirty-three east, and claims the land as a homestead.

H. G. Plumley, who has resided for four years on the north half of southwest quarter, and south half of northwest quarter of section thirty-three, township six south, range thirty-three east, and claims the land as a homestead.

Alexander McCloy, who has resided four years on the northwest quarter of section five, township seven south, range thirty-three east, and claims the land as a homestead.

J. P. Yancy, who has resided for five years on the northwest quarter of section six, township seven south, range thirty-three east, and claims the land as a homestead.

Andrew Dell, who has resided for two years on the west half of southwest quarter of section twenty-six, and west half of northwest quarter of section thirty-five, in township seven south, range thirty-three east, and claims the land as a preëmption.

Thomas Clark, Sr., who has resided nine years on the north half of southeast quarter of section six, and north half of southwest quarter of section five, township seven south, range thirty-three east, and claims the land as a homestead.

G. W. Rowan, who has resided five months on the northeast three quarters of northwest quarter of section seventeen, township seven south, range thirty-three east, and claims the land as a preëmption.

W. G. McCroskey, who has resided for three years on the northeast quarter of section six, township seven south, range thirty-three east, and claims the land as a homestead.

G. W. Norton, who has resided for ten years on the southeast quarter of section thirty-one, township seven south, range thirty-three east, and claims the land as a homestead.

B. E. Jones, who has resided for eighteen months on the southeast quarter of northwest quarter, and the southeast quarter of the southwest quarter of section three, in township seven south, range thirty-three east, and claims the land as a preëmption.

G. W. Reynolds, who has resided for five years on the southwest quarter of section thirty-two, township six south, range thirty-three east, and claims the land as a preëmption.

Rev. Andrew Clark, who has resided for six years on the southeast quarter of section eight, township seven south, range thirty-three east, and claims the land as a homestead.

Thomas Clark, Jr., who has resided for four years on the south half and northeast quarter of southwest quarter, and southwest quarter of southeast quarter of section nine, township seven south, range thirty-three east, and claims the land as a homestead.

John M. Doyle, who has resided for one year on the southwest quarter of section eight, township seven south, range thirty-three east, and claims the land as a preëmption.

J. A. C. Gunter, who has resided for five years on the southwest quarter of section thirty-two, township six south, range thirty-two east, and claims the land as a homestead and preëmption.

John Dahy, who has resided for four years on the southwest quarter of northeast quarter, and north half of southeast quarter of section thirty-three, township six south, range thirty-three east, and claims the land as a homestead.

Augustus A. Cashbaugh, who has resided for twenty months on the south half of southwest quarter of section four, and northwest quarter of southwest quarter, and southeast quarter of southeast quarter of township seven south, range thirty-three east, and claims the land as a preëmption.

E. Mallory, who has resided for two years on the northwest quarter of section one, township seven south, range thirty-two east, and claims the land by United States patent.

Wm. H. Powers, who has resided for three years on the southeast quarter of section one, township seven south, range thirty-two east, and claims the land as a homestead.

Bernard McGill, who has resided for twenty months on the west half of northeast quarter and southeast quarter of northeast quarter of section ten, and southwest quarter of southeast quarter of section three, township seven south, range thirty-three east, and claims the land under the laws of the United States.

J. L. Garretson, who has resided for ten years on the southwest quarter of section thirty-one, township six south, range thirty-three east, and claims the land as a homestead.

Eber Inman, who has resided for three years on the southwest quarter of section eight, township seven south, range thirty-three east, and claims the land as a preëmption.

James H. Brown, who has resided for five years on the north half of southwest quarter, north half of southeast quarter of section twenty-two, township six south, range thirty-two east, and claims the land as a homestead.

B. F. Thebau, who has resided for seven years on the west half of southwest quarter of section eight, east half of southeast quarter of sections eight and seven, township nine south, range thirty-four east, and claims the land as a homestead.

John S. Bodle, who has resided for three years eleven months on the east half of northwest quarter and east half of southwest quarter of section eight, township nine south, range thirty-four east, and claims the land as a preëmption, paid up.

John Mullane, who has resided for three years eleven months on the south half of northeast quarter, northwest quarter of southeast quarter, section seven, southwest quarter of northwest quarter section eight, township nine south, range thirty-four east, and claims the land as a homestead.

S. J. W. Murray, who has resided about five months on the north half of section seventeen, township nine south, range thirty-four east, and claims the land as a homestead.

Richard Norris, who has resided four years on the northwest quarter of northwest quarter of section eight, and north half of northeast quarter and northeast quarter of northwest quarter of section seven, township nine south, range thirty-four east, and claims the land as a homestead.

The last five affidavits are made before D. Campbell, J. P.

SEVENTEENTH MEETING.

WEDNESDAY, March 25th, 1874—1:30 o'clock P M.

Present—Ferguson, Chairman, and Messrs. McMurry, Finney, Parker, and Kercheval.

TESTIMONY OF WALTER F. RAND.

WALTER F. RAND, called, sworn, and examined:

Mr. Finney—Mr. Rand, are you acquainted with General Hardenbergh?

Answer—Yes, sir.

Question—How long since you have seen him?

A.—I saw him some day last week—Friday or Saturday, I think it was.

Q.—Did you then have any talk with Mr. Hardenbergh on the subject of frauds in the Land Department in this State?

A.—Well, in running conversation; yes, sir.

Q.—You say you did have some conversation with him on that subject?

A.—Yes, sir.

Q.—About what time was it that you had this conversation?

A.—Well, it was one day last week, in Oakland. We had a general conversation about the taking up of lands here—swamp land, and general land throughout the State.

Q.—Did you in that conversation mention any facts within your knowledge in regard to land operations?

A.—Well, I don't think that I mentioned any definite facts; no, I told him that I had a general belief that there had been frauds committed.

Q.—You simply told him that you had a general belief that frauds had been committed?

A.—Yes; I don't know as I stated to him any particular facts.

Q.—Did you use any names as connected with this general belief about frauds having been committed—did you mention any names?

A.—Well, the names of Chapman and some others—Chapman's name was used.

Q.—Did you use his name?

A.—I think probably I did; yes. His name was used quite frequently during the conversation.

Q.—How came you to use his name?

A.—Well, Mr. Hardenbergh happened to refer to him—telling me about his difficulties with him.

Q.—Are you acquainted with Chapman?

A.—Yes.

Q.—How long since you have seen him?

A.—I have not spoken to him for two or three years—two years.

Q.—Did you ever have any business relations of any kind with Chapman?

A.—Yes.

Q.—In reference to lands?

A.—Not particularly in reference to lands; no. We had business for some time. He was anxious to obtain certain papers, and he thought

I knew of the whereabouts of the papers. I used to have conversations with Chapman about every week, sometimes twice a week.

Q.—What were those papers?

A.—They were some papers that Page, of San Joaquin County, was interested in, and different powers of attorney, signed by different persons—some papers that Chapman didn't want to have come to the public. He thought I knew of the whereabouts of them, and asked me about them.

Q.—You say he didn't want them to come to the public?

A.—No.

Q.—What was the purport of the papers; what did they relate to?

A.—Some of them were portions of a correspondence between him and a Minnesota man, in regard to the taking up of land, both here and in Minnesota.

Q.—Who was that man; do you know his name?

A.—No; I do not.

Q.—Did you see these papers yourself?

A.—No, sir; I never have seen the papers.

Q.—He thought you knew where the papers were?

A.—Yes, he was pretty confident of it.

Q.—What reason had he for supposing so?

A.—Well, I suppose he found it out from Mr. Moore.

Q.—What Moore is that?

A.—He is of San Mateo County.

Q.—Thomas Moore? Are you acquainted with Thomas Moore?

A.—No, sir; only just to speak to him.

Q.—Did you ever have any business in regard to land with him?

A.—No.

Q.—These papers related to the taking up of land?

A.—Yes.

Q.—Do you know whether in those letters anything was said about Sioux claims?

A.—Well, he mentioned Sioux scrip very often. He had a great deal of it; he told me he had a great deal of it.

Q.—Why did Chapman want to keep these papers from coming to the public?

A.—I suppose it was private correspondence, and it showed the modus operandi of his taking up lands; and probably he didn't want the public to know how it was done.

Q.—That is to say, the suspicion was that there was something fraudulent about his operations in taking up land?

A.—Yes.

Q.—Do you think there was something fraudulent about it?

A.—Yes, I think so.

Q.—Why do you think so?

A.—Well, I know he floated Sioux scrip over one man's land—that is, if Chapman is to be believed.

Q.—You don't know that except upon his testimony?

A.—He told me himself. Then I know of his paying a note of two thousand five hundred dollars when it became due.

Q.—Did you ever know of his transactions in San Mateo County?

A.—No, sir; the land I spoke of was in Mendocino County.

Q.—Do you know of the business transactions between Chapman and McPherson?

A.—I knew this: Chapman floated Sioux scrip over McPherson's

land in Mendocino County, and afterwards affairs came about in such a way that it was to the advantage of Chapman to release all his right, title, and interest in that property, giving Allee and McPherson certain moneys.

Q.—He gave them a certain amount of money, did he?

A.—Yes, sir.

Q.—How much did he give McPherson?

A.—About eighteen thousand dollars.

Q.—He gave him eighteen thousand dollars to release this correspondence to Chapman?

A.—Yes, sir; and gave Allee six thousand dollars, and Hall McAllister six thousand dollars, making a total of thirty thousand dollars.

Q.—That was paid for releasing these papers?

A.—Yes, sir.

Mr. McMurry—Were those papers in the possession of Allee?

A.—In the possession of Allee.

Q.—McPherson knew their contents?

A.—Yes; Allee probably went to him with them.

Q.—What were the contents of those papers?

A.—As near as I can learn, they were powers of attorney in different names, that Chapman had signed—some of them the names of persons who were dead and gone. That is what I understood at the time.

Q.—That is to say, he was committing forgery?

A.—Yes, that is what I understood.

Mr. McMurry—Do you know anything about the means that Chapman resorted to to obtain those powers of attorney; did he forge them here himself, or get other parties to?

A.—I don't know; that is, I have no definite knowledge—only belief.

Q.—Do you know of any persons being connected with Chapman in the forgery of those papers?

A.—Well, from what I could learn of the correspondence, there was a person in Minnesota—I can't think of the name, it was so long ago. My connection with Chapman ceased over two years ago. There was a person whom he used to speak to me about; a man in Minnesota.

Mr. Ferguson—He was an ex-Governor, was he not?

A.—That I cannot tell. Says he, "These things will never do to get out. It has cost me thirty thousand dollars already. If you can save me, do it, any way in the world." He said, "You can get hold of that correspondence. I know from talking with you that you know a great deal about it."

Mr. McMurry—Did you negotiate for this correspondence?

A.—Yes, sir, and failed. Afterwards, I know of Chapman paying fourteen hundred dollars for a piece of bogus scrip; it cost him that. But this land in Mendocino County was where he had floated this Sioux scrip; and then McPherson got some of this evidence in his possession, and it cost Chapman thirty thousand dollars in money, and the release of all his right, title, and claim to the property in Mendocino County. That is the history of that transaction.

Mr. Finney—You say you negotiated for that correspondence? Did Chapman ask you to?

A.—Yes.

Q.—Did he offer you any money for your services as attorney in that matter?

A.—Well, I did receive some money from him, but very little; it was mostly contingent.

Q.—You spoke of Thomas Moore; you know him, do you?

A.—Yes, I know Mr. Moore.

Q.—Was he, within your knowledge, in connection with Chapman in any of these land arrangements?

A.—I don't think he was; I think he formed a copartnership with him after this arrangement.

Mr. Ferguson—Do you know of his transactions in San Joaquin Valley?

A.—Well, I know there is where a great deal of this bogus scrip, as I term it, was located.

Mr. Finney—Do you know anything about what is called the "dummy system," or about Chapman's connection with that system of entering lands?

A.—Well, no; I don't know of it under that term—"the dummy system."

Q.—It means simply this: he gets people to go to the Land Office and file for the land, and then he will turn round and sell it to applicants at a good price, when it has cost him a mere nothing.

A.—That has been done; yes, sir.

Q.—Do you know of his having done that?

A.—He told me a great deal about his business, Chapman did. I thought that he used me wrong. It was done, but in what particular case I could not tell. A person would go in and take up land and live on it, and in the course of a short time Chapman would have their claim to the property. They were not actual settlers.

Q.—They were there merely for his purpose and benefit?

A.—Yes.

Mr. Clark—Do you know of any lands having been taken up under fictitious names, and deeds having been made from those fictitious persons to Chapman?

A.—No, I don't know of any.

Q.—You spoke of correspondence in the hands of Allee. Do you know how Allee came in possession of the correspondence?

A.—Yes.

Q.—Please state?

A.—Why, he took it from Chapman's office; he was his clerk.

Q.—He was Chapman's clerk, and had access to his papers, and in that capacity of clerk he obtained that correspondence?

A.—Probably that was the way.

Q.—Was this the correspondence that Chapman wanted to obtain?

A.—Yes.

Q.—For which he paid this consideration in money?

A.—Yes.

Q.—Do you know of any one from whom we can get evidence in regard to Chapman's transactions?

A.—There is a person in Virginia City that knows considerable, and another in Santa Barbara.

Q.—What is the name of the party in Virginia City?

A.—John O'Connell.

Q.—What business is he engaged in?

A.—He is engaged in the liquor business there.

Q.—What is the name of the party in Santa Barbara?

A.—Frederick Harkness.

Q.—What is his business?

A.—I don't know.

Mr. Finney—Do you know of any case where Chapman acted as his own Notary Public?

A.—I don't know of any case.

Q.—Did you ever hear of any case?

A.—No, I did not. I have heard that he was the means of having the papers signed, and had a hand in it. He said that that correspondence would never do to get to light.

Mr. Clark—Did you ever hear that from him?

A.—Yes, sir; I heard him say that.

Q.—When was this?

A.—It must be three years ago, I guess.

Q.—What capacity were you acting in at that time?

A.—Well, Moore told me to go and see Chapman, and I did so; and talked long enough with him to satisfy him that I knew a good deal about his affairs. He said to me, "There isn't three men in this State that know what you know."

Q.—How did you become possessed of this knowledge in the first place?

A.—That is what I don't wish to tell; I found it out in a very round-about way. I went to Chapman, knowing not a very great deal, but he told me a great deal.

Q.—Did you know this before you went into his employ?

A.—I never was in his employ, strictly. I went to him very frequently, at his private office, on Pine street, and used to talk with him about his business generally, and he was very anxious to protect himself, and to protect all that were in business with him; so much so that it cost him a great deal to obtain this correspondence, and to obtain certain powers of attorney, and to obtain certain forged documents.

Q.—What powers of attorney do you refer to?

A.—He used to seem to me to be very anxious to obtain the powers of attorney of some Indian, or some party of Indians, where some parties had assigned scrip from them to him, and the Indians had afterwards made their appearance—where they had afterwards turned up.

Q.—What forged documents do you refer to?

A.—There were several of them; and he said it was not safe for them to get to light.

Q.—What was the nature of those documents?

A.—Well, they tended to show the way, the fraudulent manner, in which lands had been taken up in this State.

Q.—Were any persons other than Chapman connected with those forged documents?

A.—I don't know as to any man being connected with the forgery; but there was a man in Minnesota who was connected with him in these matters; I don't know his name, but he and Chapman were acting together—they were one and the same—Chapman and this person in Minnesota.

Q.—You say you were not strictly in his employ; were you specially in his employ?

A.—Well, I could say this: he says, "I want you to get those papers, by any means you may resort to."

Q.—Did he tell you, in case you would do so, that he would pay you for your services, as well as pay for the papers?

A.—Yes.

Mr. Finney—What method did you take to obtain them?

A.—I don't wish to say what way I took. I tried to get hold of them, and came near being successful.

Q.—Then he employed you expressly to get hold of these papers?

A.—To get them any way I could get them. He got some of them that he paid for, and he paid too much for them, he told me, because they didn't contain what he wanted. It is a well known fact that I was connected with Chapman; so much so, that when it was reported that Chapman had undertaken, or made arrangements with parties to get Allee out of the country, Chapman came to me and wanted me to make an affidavit that he had made no proposition of that kind to me; and I made an affidavit to that effect—that so far as I knew, he never in any way threatened Allee's life, or threatened to get him out of the way.

Mr. Finney—But he did make such threats, did he?

A.—No; I say that he never did. Chapman read me a letter from Allee's father, in which he stated that certain parties were employed to get him out of the way; and Chapman asked me if I would make an affidavit that I never had any conversation with him in regard to the matter. I told him, "Certainly; you never made any propositions of that kind to me;" and I made the affidavit to that effect.

Q.—Chapman was not particular in what manner you obtained those papers—did he describe to you any manner in which you might obtain them?

A.—No; I didn't want any advice on that matter from Chapman.

Q.—What year was this in that Chapman requested you to do this; or about what time was it?

A.—I think it is going on three years; two or three years.

Mr. McMurry—What reward were you to receive, in the event of your being successful in obtaining those papers?

A.—He used to say that he wanted to be liberal, of course. I understood I was to receive certain lands in the San Joaquin Valley.

Q.—To about what amount?

A.—Well, we never had any particular agreement in regard to the land. It would depend upon the amount of papers that I would deliver up to him.

Mr. Finney—Your remuneration was contingent upon the amount of papers you obtained for him?

A.—Yes—he had litigation with Page, also, at that time, and there were some receipts that Page had given him, and he was also anxious to obtain them.

Mr. Clark—Who is this Page?

A.—He is a man that has taken up a good deal of land in San Joaquin Valley.

Mr. Ferguson—R. C. Page, is it not?

A.—I think it is; yes—some man there, I think, Chapman was engaged in taking up land with; and they had difficulties, and have had litigation for two or three years now. The case was tried before Judge McKinstry. I used to think sometimes that they had a mill for manufacturing this scrip, and could turn out all they wanted.

Mr. McMurry—You used to think they had. Did you ever have any direct information on that subject?

A.—No, sir; nothing very direct. I know that if matters had been pressed in that year a great deal would have been found out that could not be found out now.

Mr. Clark—Why couldn't they be found out now?

A.—Because everything has been covered up.

Q.—The papers have been destroyed?

A.—The papers have been destroyed, and everything is quiet now.

Q.—Did you ever see any of that scrip—those blanks not filled out?

A.—No, sir. All I know is what Chapman himself has told me, from time to time, when I was doing business with him.

Mr. McMurtry—Did Chapman ever tell you that he manufactured the scrip himself?

A.—Well, no; I don't think he ever told me in direct words; but from what he said in conversation, I came to the conclusion that there was scrip that had been manufactured—that was bogus scrip.

Q.—Did he ever tell you that this scrip never cost him anything?

A.—Well, I think there was something said in conversation to that effect. He said there was very little of it that cost him anything. He said it cost him a great deal of money to settle with McPherson, but that he didn't regret so much the releasing of the property, because it had cost him very little, and he could afford to lose that; but didn't like to lose the money. And he says he paid Allee six thousand dollars, and McAllis six thousand dollars more; and he afterwards paid a note for two thousand five hundred dollars, which was then in the hands of a clerk in Latham's Bank.

Q.—What is that clerk's name?

A.—His name is Young; I don't know his other name. All I know of him is that he was a clerk in Latham's Bank.

CONDENSED REPORT OF TESTIMONY

TAKEN BEFORE THE

SWAMP LAND INVESTIGATING COMMITTEE.

*REPORTED BY MR. FERGUSON, AND ACCOMPANYING REPORT
ORDERED PRINTED.*

CONDENSED REPORT OF TESTIMONY.

TESTIMONY OF W. S. POWELL.

W. S. POWELL testified that he was very familiar with the whole history of the swamp lands of the State. He had been on the whole of the lands of the Baker grant, and was thoroughly conversant with the land, and believed there had never been anything done towards reclaiming those lands, except nominally. Don't know, from his own knowledge, what parties claim to have done; only knew what Baker, who had charge of lands, told him, which was that he (Baker) could put in a dam at the North Fork of King's River, and another at the lower end of Buena Vista Lake, and thoroughly reclaim the lands, at an approximate cost of sixty-five to seventy-five thousand dollars. The lands extend into Fresno County, and Baker was going to reclaim the lands in Fresno by putting in a dam in the North Fork of King's River. The witness was familiar with King's River. Prior to eighteen hundred and sixty-two there was a large fork; there was a great deal of water when the river was up, and he believed they threw a dam across that. The portion of that Montgomery or Baker grant lying in Fresno County is owned by J. G. James and Selig & Co.; he believed those lands were settled. Jones owns some land; also, C. Burrell, and the heirs of W. F. Montgomery, deceased. Those are the principal ones. There may be some three hundred and twenty acres belonging to other parties. Witness understood that patents for the land had been made. He was the agent of these parties in a great many matters; they had told him that patents had been issued, and he knew it positively. He thought the land in Kern and Tulare belonged to Livermore, Chester & Co. He knows Livermore owns some, but whether Chester has an interest he don't know. He knows positively that that land was never reclaimed as provided for. Swamp lands in Tulare are different from the swamp lands in other parts of the State—they are overflowed from rivers. Swamp Land District Number Eighty-one, for instance; at the time it was surveyed it was an impenetrable swamp; when it was surveyed in eighteen hundred and fifty-three or eighteen hundred and fifty-four, and as late as eighteen hundred and fifty-eight, it was one waiving mass of tules. That land to-day is built upon, and the expenditures that have been made upon it were merely nominal. A freshet in eighteen hundred and sixty-two cut a channel right through it that perfectly reclaimed it. After that channel was cut, the river was turned off some ten miles. The land was purchased previous to this cut being made there. It was

surveyed in eighteen hundred and fifty-three-four, and purchased about eighteen hundred and fifty-nine. It was surveyed as swamp land, and was entirely unfit for cultivation. In the immediate vicinity of Visalia it was almost impossible to go through it in the Winter. He knows that it was then swamp land. To-day there are tracts of land in that county that are, in fact, swamp and overflowed lands that were not segregated, because they were then dry land. There is an extensive tract of two thousand acres which was swamp land, which, in eighteen hundred and fifty, could not be penetrated for its swampy nature at all. That land is now lying idle for want of moisture—the river has changed. He never applied for the segregation of lands in Inyo County as swamp, because he considered the segregated land surveyed. He applied for large tracts, but they were not returned as swamp by the Government surveyors. He applied for them in association with others; was only acting as agent for other parties. He was not acquainted with Mr. Earle, and was antagonistic with him in this matter of swamp lands. His associates were private individuals. He has not applied for land in the neighborhood of Cottonwood Creek, Inyo County; he was with a party of surveyors who surveyed some lands about twenty miles south of Cottonwoodville, but what lands were surveyed he don't know. He understood that there were about two hundred acres near Cottonwoodville that he claimed to be swamp, and he thinks it will be so determined; he had judged of the character and extent of the land from riding past it on the train; and that was the only swamp land in that vicinity that he had any knowledge of. He knows nothing of Inyo County, except the roads he may have been upon. He was informed that there were large tracts which ought to have been returned as swamp, but until the Surveyor General made a decision defining swamp lands, he did not consider these to be so; but after the decision he made application for the lands, and went over and saw them, but was there only half a day. At the time he made these applications he endeavored to find which lands were settled on from the Deputy Surveyor of Inyo County, and that officer threw out, or attempted to throw out, all lands that were settled upon, having no knowledge except as the committee might have it. He then authorized the surveyor to erase his application, knowing it to be valueless. The only conversation he had with Mr. Earle was as follows: When he made application for this land he went to the office with some plats which he had prepared in investigating the lands, and was informed that Earle had made application for the same lands to the amount of four thousand or five thousand acres, and the surveyor had made application for two thousand acres. The other applications were merely as memoranda in pencil. He told the surveyor that he should disregard these and apply for himself. He was fortified in his idea that the lands were swamp by seeing these applications. He met Earle and had about five minutes conversation with him; told him that he (witness) had applied for those lands; was very sorry to be compelled to interfere with his arrangements, but his (Earle's) applications were not good. Earle said that under the law his applications were good, because they could not be avoided. That was the whole of the conversation. Earle came to witness' house, at Visalia, and they had probably five minutes conversation there. Earle wanted to know what witness was going to do about these lands; witness told him he was going to make an application. In making an application he would attempt to prove the lands to be swamp by the testimony of individuals who lived there; would

go over there about June or July for the testimony. He has been informed that the land he applied for is susceptible of cultivation without water. The land selected must be actually surveyed by a County Surveyor, who makes a return to the Surveyor General. Witness has been United States Deputy Surveyor, but was not such when he made these applications. The lands having been surveyed and subdivided, an application for it is approved by the State Surveyor General, if there is no adverse claims; but if the land has not been returned, the case is tried, as a question of fact, before the United States Surveyor General, who takes the evidence of witnesses, and decides whether or not the land was within the purview of eighteen hundred and fifty. Witness never had a case of that kind; all the lands he had applied for had been returned as swamp by Government surveyors. This land that he applied for in Inyo County was not returned to him as surveyed land. Mr. Payne went over to Inyo County and heard that Earle was endeavoring to secure certain lands as swamp lands. Mr. Payne came back, and came right to witness and said: "I believe that those lands are swamp and overflowed lands; anyhow, let's make an effort to get them." Witness went over to Inyo County, expecting to find his applications on file; sent back word to Payne that they were not. Had no time to stop. Made the application in his own name. Payne was Receiver in the Land Office. Witness only knew of the lands that the others went after in Inyo County from hearsay. As to the financial condition of the swamp land districts of Tulare County, there is nothing positive about this, within a few dollars; it is in debt about sixteen hundred dollars or seventeen hundred dollars. District Forty-five is in debt twenty-five hundred dollars; but there is money enough due them to pay it. That district is thoroughly reclaimed; "is just as dry as this table." It was reclaimed by the changing of the channel. The land was segregated in eighteen hundred and sixty-seven. All that was segregated afterwards was transferred to the State, and passed into private hands. It is Prairieville, forty-five and forty-six. The question was submitted to the State Board of Commissioners, whether money should be set apart to reclaim those lands. The money was actually used to reclaim them from drought. He had been informed that there was an island in Tulare Lake, which was formerly overflowed, but now the water is ten or twelve feet lower, and the island has been reclaimed, and many people have lived on it for the past two or three years. In reclaiming his own lands, the money was paid out of the District Fund. Tulare County got the money. District Number One is the principal district. It contains twenty thousand acres. There are, he thinks, eighty districts formed. The money paid into the State Treasury for swamp lands was, by the Act of eighteen hundred and sixty-eight, directed to be divided in the county (among the counties,) pro rata. Don't know on what basis the distribution was made. Tulare was six thousand dollars ahead, Fresno fifteen thousand short—generally as unpaid warrants. Whether or not he or his principal intended to devote money towards reclamation of lands, depended entirely on the character of the land. He would give nothing for land that was not reclaimed.

TESTIMONY OF S. V. STEVENS.

S. V. STEVENS testified that he knew of no land in Inyo where the water has to be kept off; the great difficulty is to get water enough on. He had heard, and believed, that Powell had surveyed a number of sections up in the mountains. The land that he had heard that Earle had applied for near Independence is sagebrush and sand—grass land sometimes, and sometimes not. There are bona fide settlers on the land, some of whom have been there about ten years. If Earle should obtain title to the lands no reclamation at all would be necessary, but they would have to get water to enable them to raise anything. Water could be brought to it in ditches. He knew the land perfectly, and the soil. Lank had not water enough on his place for drinking purposes. There is not a swamp in the whole county. Every man in the county supposed that Powell surveyed land there. All the land Powell applied for is settled up; it is hard to get a piece of land there for farming where they can get water on it, and that is the only way to do anything with it. It has been one constant fight for water. There has never been any draining done there. Owen's River runs through the valley in that county, but it never rises out of its banks. Cottonwood Creek starts in at the head of the mountains, runs down through rocks, principally, and comes down on the baked sandbank. There is land there which has been located as swamp where grass would not grow high enough for the cattle to graze on. He has been there about seven years. When he left the feeling towards Earle was that he had better not return there.

TESTIMONY OF THERON REED.

THERON REED testified that the farms on Bishop Creek, Inyo County, usually need irrigation; guesses they all irrigate; knows less of those farms than any others in the county; but believes they have ditches cut to them. The swamp lands lie down next to the river, and are one hundred and fifty yards to a mile wide. He calls those swamp lands where the tules grow. He knows Garrettson's and Snedan's land; should not think that was swamp. The strip along the river, where the tules grow, is eighty or ninety miles up and down the river; from one hundred feet to one quarter of a mile wide in places. This land may be dry three or five months, in Summer it is overflowed. This Spring there was a lake opposite Independence, three quarters of a mile wide. He does not know of any other swamps in the county. This town is four miles from the river. In July or August the snow on the mountains melts and come down on the valleys. He has never been there in August. He don't know who owns the swamp land; he has heard that Powell and Payne have taken up the land there. He heard Powell say he had some land upon the mountains; thinks Powell was in there somewhere surveying. He don't know who are the associates of Earle, or what he has got. Earle told him that he established his own swamp land district there. He had never heard a word as to whether Earle could induce the owners of land there to enter into his district. Earle said he had an interest, and was going to establish an association.

Earle was never going to interfere with the lands if they were surveyed. The survey covers the Stevens timber land, it can be taken up with University scrip. When witness told Stevens about it he said, "No one shall ever touch them." Earle did not tell him he had them surveyed; he said "I think they cover Stevens' land." Witness does not think there is a chance of Earle's touching one of the preëmption and homestead claims on Bishop Creek; don't think he can. The settlers were there when Earle filed his applications; don't know that he filed one of them. He drove with Earle for three miles, and Earle said, "This is the richest grazing land I ever saw." It was not claimed, and no one was settled on it. Presumes it is swamp land; it is such as in his county is called swamp. That is all the swamp land he saw. He has been to Lank's house a great many times; should not suppose the land where this house is to be swamp, but what there is in the valley he don't know. He knows nothing about Earle's proposing to the settlers that they should fall in with his schemes, and he would take up their land as swamp; all he knows is, that about a year ago Earle told him he was going in for the swamp land districts, and he (Earle) proposed to the settlers that they should let their farms go in without objection as swamp land, and then the money allowed for reclamation would come back to them under the swamp land law. He don't know what the difficulty between Earle and Powell is, any more than that they say Payne and Powell had "played out" Earle; that Powell had got the lands. Witness did not interfere to prevent Payne's removal; did not tell Mr. Parker that he had written three or four letters to prevent Payne's removal; he wrote one letter to Mr. Sargent, and didn't mail it. He intended to write, but forgot it until it was too late. What the public feeling on Bishop Creek is regarding Earle, he don't know; but Garrettson is very bitter towards Earle, and expressed a great desire to hang him, or see him hung. He could not suppose that Earle's proposed company, or the farmers, would spend a dollar in reclamation, or to keep the water off the land, but he don't know but they would; he could not say. It would be his opinion that they would not; still, he don't know. There is a fight all through the valley to get the water. In the valley lands it is always too wet for anything but grass. He could not say whether or not there is one hundred and thirty-three thousand acres there. The lands along Bishop Creek don't look like swamp lands to him. He always calls it swamp where the tules grow. If the land is under water three or four months at certain seasons, it would be very different from what it is when he sees it (in April, September, or November). When he sees these lands they are elegant orchards, and produce crops, etc. There are no levees to keep the water off, but ditches to bring the water in. He has kept aloof, because the Payne and Powell dispute will come before him as District Judge. Their proposal, if rightly carried out, will bring money into Inyo County, instead of the United States Treasury. The only man that owns this class of land there, so far, is Seeley, who has applied for some two thousand or three thousand acres. Witness refused to come in with him, but would have done so had he not been District Judge.

TESTIMONY OF J. F. HOUGHTON.

J. F. HOUGHTON, ex-Surveyor General of the State of California, testified that the patent for the Tulare Canal grant was issued during his term of office. The patent was secured by an Act of the Legislature; there were three or four Acts. The final Act was passed in eighteen hundred and sixty-two. The Act required the company to reclaim the land. At that time parties applied for the patents to the Governor and the Surveyor General under the law, and represented the facts, and if everything proved correct, the Governor issued the patent. In this case the parties appeared at witness' office, claiming to have reclaimed the lands. He looked over the law, and the parties were not satisfied with it. He went to the Governor and told him that the parties had applied for a patent, and showed him the law, and asked him what we should do about it. He suggested that an engineer be appointed to go down and see the lands; and he proposed Mr. Jackson, who had been engineering some reclamation work near this city. The Governor said, "He is just the man." We sent for and talked the matter over with him; told him no appropriation was made to pay the expenses he would incur, but said we would both recommend the payment of a proper bill. He took a letter of instructions and went down, and came back in two months with a very extended report. He reported nearly all the lands to be wholly and thoroughly reclaimed, and large portions more partially reclaimed. That was witness' recollection of the report. The company also claimed that they were still going on with the work of reclamation, and would soon have a large amount more reclaimed. Witness and the Governor refused to recognize any claim to any further reclamation, and gave them a patent for that which the engineer reported thoroughly reclaimed. The report of the engineer is on file in the Surveyor General's or the Governor's office. Some portion of this was referred to the Attorney General, and he drew up the deed releasing the title of the State to the lands. During witness' term there were lands that had not been segregated by the United States as swamp lands. Under the laws of the State, parties were authorized to buy lands which were not segregated by the United States, upon proof by the affidavits of two or more witnesses accompanying the application. In townships seventeen and eighteen north, range one west, previous to the survey, a great many settlers had inclosed over one hundred and sixty acres each, that they had had under cultivation for years. A rumor came that the railroad company was going to file a map of its route, and when that was filed, no preëemptor could get a title to over one hundred and sixty acres, and they would lose the balance. In that emergency, they applied to the County Surveyor for a plan to save their lands, and urged the necessity of surveying those townships immediately. A deputy surveyor was detailed to survey this township, and the survey was made very quickly, and the returns sent to the United States Land Office, and a copy to the Marysville Land Office; and within two or three days thereafter the map was filed. Meanwhile a man had been employed by the settlers to locate school land warrants, in order that they might hold more than one hundred and sixty acres each. It was possible to do it, and it was done. The railroad company contested the matter for two years, but the Department decided it to be regular. The patent was given to the canal company at the close of eighteen hundred and sixty-two, or in eighteen

hundred and sixty-three, or eighteen hundred and sixty-four. It was during Governor Low's term; he thinks it was eighteen hundred and sixty-four. The total amount of Controller's warrants against the State, now outstanding, is eighty-eight thousand seven hundred and one dollars and seventy-nine cents. The total amount ever issued was five hundred and forty-four thousand and fifteen dollars. The law required the payments for swamp lands to be made into the State Treasury, and required all warrants to be returned to the State Treasurer. District Number One, in Sacramento and Sutter Counties, has twelve thousand two hundred and twenty-two dollars outstanding; District Number Two, in Sacramento County, has fourteen thousand and sixty-four dollars; District Number Five, in San Joaquin County, nine thousand nine hundred and seventy-nine dollars; District Number Six, Tulare County, one hundred and twenty dollars; District Number Seven, Solano County, four hundred and ninety-four dollars; District Number Sixteen, Tulare County, sixteen dollars; District Number Seventeen, in Yolo, Solano, and Sacramento Counties, forty-nine thousand four hundred and sixty-one dollars; District Number Thirty-eight, Sacramento County, two hundred and sixteen dollars; District Number Forty-one, Solano County, eight hundred and thirty-seven dollars; District Number Forty-eight, Tulare County, three hundred and eighty-one dollars; District Number Fifty, Sacramento County, one hundred dollars; District Number Fifty-four, Sacramento County, seven hundred and seventy-nine dollars—making a total of eighty-eight thousand seven hundred and one dollars, in all cases omitting the cents. In eighteen hundred and sixty-one and eighteen hundred and sixty-two Acts of the Legislature created a Board of Swamp Land Commissioners, to take charge of the swamp lands of the State, for the purpose of reclamation. Upon the petition of the holders of one third of the land in any large district of swamp lands, the Commission was to appoint an engineer, who was to report a plan for reclamation. If that plan was satisfactory to the Commissioners, it was adopted, and bids were advertised for performing the reclamation according to the accepted plan, and the contracts let to the lowest responsible bidders. As the work progressed, he certified the amount of work done to the Commission, who, if satisfactory, certified his report to the Board of Examiners, by whom it was certified to the Controller, who drew his warrant in favor of the contractor for the amount approved. The money arising from the sale of lands in any district went into the Swamp Land Fund of that particular district. An Act of eighteen hundred and sixty-four provided that the warrants on eight of these districts should bear interest at ten per cent per annum, because, the lands not being paid for, there was not money enough in the District Fund to pay the contractors. In some instances there were a few more Controller's warrants out than the lands would pay for. If any warrant is payable at any given time, it will bear interest after that time. Many of these warrants are still held by the contractors. They have not attracted the attention of capitalists, because the State has not made proper arrangements for their payment. A great deal of the expenses of this Commission was paid out of the General Swamp Land Fund. Twenty per cent was to go towards the payment of the expenses of the Commission. If a County Surveyor had run the exterior boundaries of a large body of swamp land, and had a map of all the land by the exterior boundaries, he could prepare a map of a small por-

tion of the land without going into the field. It could be platted in his office, and that was considered as a proper survey, and witness thinks it was legal. This method is pursued in the United States surveys. Perhaps it was not strictly legal; but that is the way it was done. There are none of the old districts having Controller's warrants out. Witness don't know, personally, of any lands having been listed to the State as swamp lands which were not such.

TESTIMONY OF J. R. HARDENBERGH.

J. R. HARDENBERGH testified that he is ex-United States Surveyor General; that he knew very little about swamp land frauds; that most of the swamp land had been listed prior to his term. He has tried some cases under the Conness Act of eighteen hundred and sixty-six, and they have tried to bribe him several times. He tried the Sierra Valley land cases; made an examination on the land. The State's claim to the land was rejected by the Secretary of the Interior, and the settlers were allowed to enter. That finally settles the matter. Witness was charged with having been bought by the settlers in that matter. Mr. Mahoney told him that Chapman had said that if he (witness,) would decide the case in his favor he would give him one fifth, which was worth one hundred thousand dollars. At another time Kimball had taken some lands as swamp, and the settlers sent witness a petition, saying that the land was not swamp. While he was investigating the matter he went into Chapman's room, and Chapman laid a roll of twenties on the table. Witness asked what that meant, and Chapman said: "You had a good deal of trouble in that Kimball matter." Witness replied: "You are mistaken in the man entirely. You can send that back to Kimball, and tell him he cannot bribe me." Then Jesse D. Carr tried to bribe him to appoint a surveyor of his nomination. Witness declined to appoint the surveyor, and Carr then spoke to Robinson, witness' chief clerk, and told him there were five shares of that thirty thousand or forty thousand acres for him. Witness told him to tell Carr that he would not appoint Applegate. Nearly all of the swamp lands have been segregated. There is twenty thousand or thirty thousand acres of swamp land in Colusa County applied for; some in Lassen County, near Susanville; a small tract near Stockton, held by Judge Bradford; another tract in Fresno or Kern. Then there was an application made by Earle for the purchase of a large tract in Inyo. The law says he shall designate the sections, but Earle sent back word that the sections were not designated. Witness thinks that is all the swamp land now in contest. Earle applied to him to appoint a deputy surveyor of his nomination, but he declined, and Earle was indignant at his refusal. He knows nothing of bribery in the State Land Office, except what he received from Allee, who had been Chapman's private clerk. Allee told him that Chapman had on his books an account entitled "Bribery Fund." That fund, Allee said, was used in Washington; if any of it was used in this State witness don't know it. He knows more about public lands than swamp lands. He was very careful in his selection of surveyors. He can name witnesses who can testify concerning the manipulation of Land Offices in the State. September twenty-

eighth, eighteen hundred and fifty-two, the Kansas Act was passed, and May twelfth, eighteen hundred and sixty, the Act was extended over this State. On the thirteenth of May, eighteen hundred and sixty-one, the State appointed the Swamp Land Commission, to segregate all the swamp lands in the State, which they did. After the Act of Congress of eighteen hundred and sixty-six, it was made the duty of the Surveyor General in this State to make segregations, make maps, etc.; and the Governor was to send them to the United States Surveyor General, and he transmitted them to Washington. All surveys of lands as swamp lands under that Act became absolute. An investigation of a case before witness' predecessor decided this point. In the case of any lands surveyed after eighteen hundred and sixty-six, and returned as swamp land, upon information that it is not swamp being given to the United States Surveyor General, he is to hold an investigation and determine the character of the land. The Department has decided that land which will grow a crop of grass is swamp land. Most all the land in the State is owned by a few men. Chapman has been the catspaw which has drawn the chestnuts out of the fire. Chapman came here in eighteen hundred and fifty-six, and brought about eight hundred dollars and some Sioux scrip. Chapman located lands on this scrip near Carson, Nevada, but his locations were rejected at Washington; then he came here, and tried to get agricultural scrip, which he was to pay for as he drew it out. He had some Chippewa scrip and Sioux scrip. It could be proved that he forged any quantity of powers of attorney for the scrip, by parties here. He induced the Register of the Land Office at Stockton to obtain leave of absence and go East; and it can be proved, that while he was gone Chapman procured the appointment of a substitute in his office, and that he put "W. S. C.," in pencil, on large quantities of the unoccupied lands, on the map of the San Joaquin Valley. When a settler applied for land, he would be told, "Mr. Chapman has filed on that;" and Chapman would turn round and make this man pay from three dollars to ten dollars an acre for the land. He used the United States Land Office as his office. One settler came to the Stockton Land Office and wanted to enter some land. He said there was a stream of water on it which made it particularly valuable; and while he was gone for the purpose of getting some greenbacks, Chapman said, "I will take that land," and he laid the money on the table; and when the settler came back, the acting Register said, "Since you have been gone, Mr. Chapman has entered that land and paid for it." There has been a change in the Stockton Land Office since. Carr, at one time, swore that the grant of a ranch was fraudulent, and agreed to give Hermann, the lawyer, two leagues for getting him a title to it; then he set out that it was a fraudulent claim, and refused to give him any. Nearly all the swamp land in the State has been listed to the State. There is some in Inyo County, and perhaps a bit in San Diego County, that is not listed, and there is some around the lakes in the mountains. There is a lake back of Long Valley, or the valley above it, that has not yet been surveyed. He knows of no one except Earle who has applied for the segregation of swamp lands in Inyo and Mono Counties. He sent Mitchell down there to make the surveys, and thinks he made them. He thinks probable that subsequent additions to the original application were made by Mitchell, and that there were thirteen thousand or fourteen thousand acres surveyed before. He didn't appoint Earle's surveyor, because he knew he was interested in the land. An application for swamp land being filed with the Surveyor General, he

serves notices on every settler that is on the land, of the holding of an examination, and then goes upon the land and approves or disapproves every forty acres, and sends his opinion to the Department at Washington, from whence it is sent to the Secretary of the Interior, whose action upon the matter is final. The witness don't see how this proceeding can be evaded by the Surveyor, under his oath. He thinks Gardner was always on the square; knows that in a great many instances Gardner would not give the notices because he thought the land was not swamp land. A great many surveyors have failed to give the notices; but where the land is segregated by the United States that ends the contest. Chapman had been in the habit of endeavoring to control the appointing all surveyors, and before they would file their map he would know all about it. If witness had made the appointment requested by Earle it would have ousted the settlers, who would have had no redress after the Surveyor's report was approved in Washington. Witness had the right to appoint Earle's nominee, but would not do it. He thinks had he done so the examination would have been made in Earle's interest; and if afterwards it were proven that the examination was fraudulent, it would not have been void, under the ruling of the Department. Witness went to the Mountain Meadows, near Susanville, and examined those lands which had been filed upon as swamp lands. He returned by way of Indian Valley, where there were one hundred or one hundred and fifty acres of the land, which was owned by three or four men, who had torn down the houses of the settlers. Witness was satisfied that the land was not swamp, and wrote to the Department that the deputy had been tampered with, and the land was not swamp land; but the plat of the land having been accepted, there was no redress for the settlers. That is the only case within his knowledge where a surveyor has made an improper return. Some of Earle's land has been surveyed and settled for some time. George D. Coleman was never appointed deputy surveyor by witness, and was never connected with his office. The only men who went from his office to townships fourteen and twenty-three, in eighteen hundred and seventy-three, were Minto and J. C. Dunham. An army officer surveyed some land in that vicinity for private parties. A district land officer can never act in a judicial capacity in the case of an examination of land; when the Surveyor General directed him to give notices, he might not give a true list. A land officer cannot decide a case and have an interest in it. The Register and Receiver both have to examine all land matters of the United States which come up in their districts. Witness don't think it right for a Government or State land officer to speculate in land himself. Witness bought no land while in office except a homestead; but there is no law which prevents a land officer acquiring land while in office. The Register cannot order surveys to be made without applying to the Surveyor General. The difficulty in this swamp land matter has been in relation to the swamp lands in the mountains, most of those in the valleys having been disposed of long ago. The State has all she is entitled to under the Conness Act, and perhaps a little more. Chapman's book containing the "Bribery Fund" account is his private register. Daniel Allee, of San Francisco, will swear to that matter. The land grabbing in this State has been done by Chapman and a few others, and has been done not so much in the United States Land Office as in the State Land Office. Chapman sold large bodies of land to Friedlander and others. Witness does not think that under the State law a survey would be legal where the surveyor did not go upon the land, but made the plat in his

office; and he believes such surveys could be invalidated. Under the law the lines ought to be recorded. The State surveyed all the swamp lands prior to eighteen hundred and sixty-six, and the maps are now on file. He thinks the Surveyor General of the State would have no right to approve of a survey if the surveyors did not go on the field. The lands in the southern part of the State which are returned as swamp are entirely different in character from the swamp lands on the Sacramento River; the lands there being really swamp and overflowed, made so by the river overflowing its banks.

TESTIMONY OF JOHN BOGGS.

JOHN BOGGS, State Senator from Colusa, testified that he had secured and put in about seventeen thousand acres of swamp land which was surveyed and returned as such by the Deputy United States Surveyor prior to July, eighteen hundred and sixty-six. It was also segregated and returned as swamp by the State. He made another application for about seven thousand which had been surveyed by the United States Surveyor in eighteen hundred and sixty-seven, but it was afterwards resurveyed and returned as not swamp land, and, as settlers had taken it up, witness did not push his claim. The swamp land district in his portion of the State is a large district, its reclamation has been very expensive, and its indebtedness is considerable, but there have been no complaints. He believes the Reclamation Fund Commission is not advantageous to the swamp land; that only two or three districts have been benefited by the Act creating the Board.

TESTIMONY OF B. F. MAULDIN.

B. F. MAULDIN testified that in eighteen hundred and sixty-nine he applied for eighty-four thousand acres of swamp land in San Joaquin County, about twenty thousand in Yolo, at least three thousand or four thousand in Sacramento, and seventeen thousand in Lassen. Under the law which provided that no one should take more than three hundred and twenty acres of swamp land, all that could be cultivated was settled on, leaving only the deep tule land untaken; and in eighteen hundred and sixty-eight the law was changed, and a person could take as much as they saw fit; and wherever he found a body of swamp land after that he took it all. On Grand Island he found about seven thousand acres vacant and took it all. Application for swamp land was made to the County Surveyor, who, if no previous application had been made for the land, would certify that fact to the Surveyor General, who, if correct, approved the surveyor's return, and twenty per cent of the price of the land had to be paid within fifty days. Where the United States authorities had surveyed the lands the segregation lines were designated on the plat, and, under the law, the County Surveyor, in making his survey, has but to trace a copy from the plat of the United States

Surveyor. The application must conform to the United States Surveyor's description. The law of eighteen hundred and fifty, which granted those lands to the State, did not provide for the surveying and segregation of the lands, but it was decided by the Courts that the State could make the surveys and segregations herself; and Von Schmidt and others were engaged by the State to survey the lands; and their surveys were accepted by the Government, and in accordance with their surveys these lands were submitted to sale under the law of eighteen hundred and sixty-eight. Witness secured the whole of Twitchell Island, burned off the tules, sowed it in wheat, and cut and sold seventy bushels to the acre; he made his application for the land to Doherty, then County Surveyor, who did not go upon the land to make the survey, but made a copy of the plat that was filed in the Surveyor General's office. Doherty knew there was no resident or claimant on the land, because there was no application on his books for it. In San Joaquin County witness made his applications to Wallace, County Surveyor. Some parties living on the land which he had applied for in San Joaquin County bought his claim to the land. In Yolo County he made his applications to Underhill. Made application for seventeen thousand acres in Honey (?) Lake to John C. Partridge, and was told by Will Green that Partridge's fee should be about eighteen dollars; but he demanded two hundred dollars, and received it, but made a return which the Surveyor General would not approve; and refused to correct the return unless witness sent him three hundred dollars more, which he refused to do, and the application has never been approved. Doherty made the plat and handed it to the Surveyor General for approval; but neither he nor the County Surveyor of San Joaquin County went on the ground to make the surveys, but they were properly returned. Underhill did not make his survey of the lands witness applied for in the Surveyor General's office here; Underhill had a copy of the plat as returned to the United States Surveyor General's office, in San Francisco, and he traced a copy from that plat on tissue paper, making it conform to the segregation lines, estimated the number of acres, gave the forty-acre subdivisions, and made a return to the Surveyor General, charging witness two hundred and fifty dollars. Witness considers that such a survey complied with the law then existing. General Houghton told witness that the surveyor was not required to go upon the land. Under the early law the requirements were different. Witness applied to Fitch, County Surveyor, for about eight thousand acres, in Solano County, and secured them. He went to Fitch's office and asked permission to see his county map, but was refused. Witness then left, and returning, a few days later, learned that Fitch and Judge Hinkley, of Fairfield, had, since his first visit to Fitch's office, made an application for about five thousand or six thousand acres near Mare Island. Witness made his applications for lands entirely upon his own idea; but after having secured them, he tried to interest capitalists in having the lands reclaimed; George D. Roberts was associated with him; and he sold tracts to J. W. Tucker & Co., Dr. Ryer, and to Mrs. Parker. He never knew of Bost being interested in these land matters. He never procured the appointment of a Deputy United States Surveyor, and never had anything to do with them. In eighteen hundred and sixty-nine he located a piece (less than two hundred acres) of tide land in Redwood City, San Mateo County, and sold it to J. W. Tucker, who had other land near by. He never had any transactions with the United States Surveyor General in regard to swamp lands, and knows nothing of their segre-

gating lands as swamp lands which were settled upon. The lands he took up were deep tules, where no one could settle, and which no one else wanted. The County Surveyor of San Mateo County did not go upon the land to survey the land applied for by witness, but made the plat in his office. He has never applied for swamp lands in Inyo County, but has taken about forty sections of school lands there and sold them to residents of the county. He has never been in that county, but knew the character of the lands he bought, from the returns of the United States Surveyors. In applying for swamp land it is necessary to obtain a certificate from the Register of the district, declaring that there is no claim adverse to the State's claim to the land.

TESTIMONY OF WARREN BRYANT.

WARREN BRYANT testified that three months ago, T. O. Carter and himself purchased a half interest in the Baker Grant. He has never been on the land, and knows nothing of the amount and nature of the reclamation work done there, except from the report of the Secretary of the Visalia Canal and Transportation Company. He has some swamp lands in Contra Costa County which are under reclamation.

TESTIMONY OF T. O. CARTER.

T. O. CARTER testified that there is a ditch or canal on the Baker or Montgomery Grant, but only knows of its size and extent from hearsay. He thinks the canal was constructed for a shipping canal, and not for purposes of reclamation; that the patent for the land was not issued under the idea that the land is reclaimed, but as a compromise of the contract which had been made with the Visalia Canal Company. The compromise was made by the Act of the Legislature, and not by the Governor and Surveyor General. The officers of the company certified that the land was reclaimed, and in consideration of the work which had been done, and of the relinquishment of the rights that this company held, the State patented the tract to them. He was over the land several years ago. The canal is near the head of Fresno Slough, and is about forty feet wide, four feet deep, and two miles long. It is not used for any purpose now. The lake divides the land into two pieces. The grant is in Kern, Tulare, and Fresno Counties. Five or six men hold the remainder of the grant. He thinks that most of the land which was relinquished by the canal company to the State has been applied for as swamp land. The construction of the two miles of canal cost thirty-two thousand dollars; and after the two miles was completed, the company's engineers discovered that Tulare Lake would be lower than the outlet of the canal, and they stopped work; and they represented that the State would not be benefited by the completion of the canal, and the compromise was effected. The canal, if completed, would have been fourteen or fifteen miles long. By the compromise, the company re-

ceived a little over eighty-nine thousand acres, and if they had constructed the whole canal, they were to have all the odd sections along its line. In the first grant there were about two hundred thousand acres.

[The contract for the construction of this canal, between James G. Fair, and Delos Lake, and James T. Boyd, and the report of James T. Boyd, Secretary of the Visalia Canal Company, were produced before the committee by Mr. Carter, and copies of those documents will be found in the transcript of testimony, page fifty-two.]

[A copy of a letter from R. A. Martin to Senator Lindsey, in regard to certain land claimed as swamp land in Tehama County, will be found on page fifty-seven of the transcript.]

TESTIMONY OF JOHN J. DOYLE.

JOHN J. DOYLE testified that he had lived in Merced County for over four years. He knew the lands adjacent to Mussel Slough in Tulare County, and would not think they were in any sense swamp lands. There was as fine a growth of white oak trees there as he had seen in the State, except at Visalia; the trees are similar to those at Kingston, some of them are five feet in diameter. There are no indications on the land that they have ever been swamp or overflowed lands. The timber in nowise indicates that water has ever stood around it, except where there are some sloughs between the trees. It is said that a number of years ago a dam was thrown across Mussel Slough in order to turn its water over the land to make it overflowed land. It was supposed to have been done by Jack Southerland, who now claims a large portion of the land adjacent to that slough, as swamp land. Witness was informed that St. John had done the same thing; he has a tract there about six by ten miles in extent, called the St. John Tract. A great portion of the tract is high, dry land, and would be considered by a traveler anything else than swamp land. Witness never saw any portion of the Southerland or St. John Tracts that seemed to be natural swamp land, except next to the lake or at the mouth of King's River. Bliss claims several thousand acres adjoining St. John's land. On Southerland's land witness drove through rosin weed which was as high as his horses' backs; and land where rosin weed grows is considered by farmers the best wheat land. He is a farmer, and has a general knowledge of the farming lands in California, and thinks that in order to raise crops of grain on some portions of the Southerland Tract, it would need irrigating. There is a ditch or canal which empties into Fresno Slough. He was informed that a survey had been made in the neighborhood of the Southerland Tract with the idea of running a ditch for the purpose of irrigation, but after surveying seven miles they found the land to be fifteen inches higher than the river, and the scheme was abandoned. The farmers in that section in raising grain irrigate the land, or attempt to; there success in farming without irrigation has been very poor so far. In that section to make farming successful irrigation is almost indispensable. The listing of the lands there as swamp lands is regarded as fraudulent by the people living there.

TESTIMONY OF ROBERT GARDNER.

ROBERT GARDNER, Surveyor General of the State of California, testified that there are not more than ten thousand acres of swamp land in the State remaining unapplied for and unsold, and what there is, is mostly tide land, and a good deal of it is tide land which, under a recent decision in the case of *Kimball vs. McPherson*, cannot be sold. There is little swamp land applied for and not approved, except where contests are pending. He thinks the tide lands of the State could be taken charge of by the State Land Office more safely and satisfactorily than by the Board of Commissioners, and certainly at a great deal less expense. He thinks the few tide lands within the tide land limit ought to be closed up within two or three months. The interest on the swamp lands is paid to the County Treasurer; the Surveyor General's office receives no money. The County Treasurers report each month to the Surveyor General, and also to the Controller. On the swamp lands that have been applied for there is a considerable amount of interest due. Where the lands are in process of reclamation the interest is suspended. By the law passed two years ago it is provided that the Supervisors report to the Surveyor General as to whether the lands are in process of reclamation, but do not detail their proofs; and if the owners satisfy the Supervisors that they are engaged in reclaiming the lands, the interest is suspended. By this law, if the owners show to the Supervisors that they have reclaimed the lands, the Supervisors certify the fact to the Surveyor General, who issues an order on the County Treasurer to pay back the money advanced for the land. That law is a pretty good thing for swamp land men. There have been cases where parties pretended to reclaim, and did not do so. These swamp land laws have all been passed in the interest of swamp land men; there was no check upon them. The lands in Fresno County applied for by John Southerland, were segregated to the State as swamp lands. Southerland was the assignee of other parties, and not the original claimant. Before issuing a patent for swamp land the Surveyor General requires no proof that the land has been reclaimed; if payment in full is made, parties are not required to prove reclamation, or to make it. If any frauds have been practiced, by returning lands as reclaimed which are not so, witness believes they have been perpetrated by parties in Tulare, Fresno, and Kern Counties.

TESTIMONY OF JAMES O. WANZER.

JAMES O. WANZER, clerk in the State Land Office, testified that the liability of the State upon the warrants issued by the Controller on the Swamp Land Fund, is a question for the Courts to decide. There is a provision in the law that the State is not bound. The intention was to hold the land in each district responsible for the amount drawn on that district, and a lien was created on those lands for the payment of these warrants. The warrants were issued for the purpose of raising money to be used in reclaiming the lands. He understands that most of the

warrants were sold for forty or fifty cents on the dollar. The warrants were mostly issued on districts in Sacramento, Yolo, Solano, and some in San Joaquin. The San Joaquin and Tulare warrants have mostly been paid off. The largest amounts were in Sacramento and Yolo Counties. At the time these warrants were issued, most of the land was unpaid for. It was applied for by purchasers throughout this part of the State, and the warrants were issued, and it was expected that those warrants would be paid into the Treasury in payment for these lands; but the lands fell into the hands of speculators, who got them for a ridiculously low figure, and now the State has neither the land nor the money. The whole subject of these bonds is one that almost defeats any inquiry into it; it is almost impossible to find out anything about this matter. The warrants are issued on the districts by number; and it is almost impossible to find the boundaries of the districts for which the warrants were issued, as the law has allowed them to change their boundaries. Information must be sent to the Land Office upon the commencement of the work of reclamation, and under the law the interest is suspended for four years; but if the reclamation is not completed in four years, as the law stands now, there is no suspension of interest—all the back interest is due. In the cases where this time has run out, the last Legislature passed Acts extending the time. It is almost impossible for the Land Office to report as delinquent any swamp land; it is impossible to make a list of the delinquent lands. After the abolishment of the old swamp land system, many of the districts were not required to report to the Land Office at all. A great deal of the swamp land has not been patented, and a great deal has been that should not have been. Until the Act of eighteen hundred and sixty-eight, there was no requirement in the law providing that the land should be thoroughly designated as swamp land. The same was true with school land. A man could get a patent for anything he would apply for, whatever the nature of the land, and without reference to its belonging to the State. There are more applications for lieu lands than are due the State. There are many such applications in the Surveyor General's office now which are unapproved. There is no provision in the law as to the length of time an application may lie in the Surveyor General's office; but there is no law to prevent a swamp land application being approved as soon as it is filed in the office, and it generally is. A few days ago one hundred and fifty surveys came to the Land Office from Tulare County, and were all approved two days after.

TESTIMONY OF GEORGE G. W. MORGAN.

GEORGE G. W. MORGAN, Secretary of the Board of Reclamation Fund Commissioners, testified that the salary of one member of said Board is two hundred and fifty dollars per month, and of the other two members two hundred dollars each per month, and of the Secretary one hundred and fifty dollars per month. That is all the expenses provided for by law. Then the Board has a messenger whose pay is fifty dollars per month, and a janitor whose pay is twelve dollars per month. When the Commission was first formed, many districts seemed desirous of availing themselves of the pro-

visions of the Act by which the Commission was created, but up to this time only one (Levee District Number Five, of Sutter County) has done so. The area of that district is one hundred and two thousand acres. The Act only allows a bonded Fund of six dollars per acre. They made application for six hundred and seventeen thousand dollars' worth of bonds, and five hundred and eighteen thousand dollars' worth have already been issued to them. Upon assuming the office of Secretary, witness found that there was no money in the Treasury of the Commission with which to pay incidental expenses, and he was compelled to use his own money to pay incidental office expenses. That state of affairs continued about nineteen months. The Act provided that the Commissioners should levy a tax each year upon the districts to pay the expenses of the office. They have levied a less amount than is sufficient to pay their expenses because there has been but one district to assess. The principal business of the office has been the issuance of warrants and cancellation of bonds. If, at a meeting before the Board of Supervisors in a district, the owners of a majority of acres in the district declare in favor of availing themselves of the provisions of the Act, the President of the Board of Supervisors certifies the fact to the Commission, and the reclamation is proceeded with. The Commission has no knowledge as to the work done in the districts; it receives the warrants of the County Auditor, who takes the engineer's return as evidence that the work is performed. The Commission organized May third, eighteen hundred and seventy-two. The present Commissioners are Charles F. Reed, A. S. Bender, and E. N. Strout. The salaries of the officers come out of the districts, and they have received thirteen months' salary out of twenty-two months. Levee District Number Five has paid in to the Commission sixteen thousand dollars; but that includes the salary of Judge Sanderson, who had been engaged by the Commissioners as counsel, the issuance of the bonds, and the general expenses of the office. About ten thousand five hundred and fifty dollars has gone to the Commission for salaries, and the balance for incidental expenses. The Commissioners made an agreement with Mr. Parks, agent of the land holders in Levee District Number Five, to fix the tax upon that district for the first year at two and one quarter cents per acre, which would amount to two thousand five hundred dollars. The stated meetings of the Commission have not been frequent, but whenever any business demanded their attention they would meet. He estimates the whole number of meetings that have been held at thirty. The business at each meeting would usually be dispatched in one day, but in some instances it took two or three days. The Commission has issued one thousand and thirty-four bonds and a large number of certificates.

[A copy of the letter of witness to Parks, and an extract from the records of the Commission, will be found in the reporter's transcript, page seventy-three.]

TESTIMONY OF J. W. C. COLEMAN.

J. W. C. COLEMAN, Auditing Clerk in the Controller's office, testified that the amount of money received in the Swamp Land Fund up to the time of the organization of the district system, in eighteen hundred and sixty-four, was four hundred and thirty-seven thousand four hundred and seventy-four dollars and seventy-eight cents, of which one hundred and sixty-seven thousand one hundred and fourteen dollars and eighty-four cents was expended for reclamation purposes, including the expenses of reclamation, the salaries of the engineers in the field, and the pay of the workmen. The money was expended in seven counties—Sacramento, Colusa, Sutter, Solano, Tulare, San Joaquin, and Yolo. The Act of eighteen hundred and sixty-eight required that all money remaining in the General Swamp Land Fund, which amounted to about one hundred and thirty-two thousand dollars, should, after deducting the amount of the reclamation expenses in the various districts, be returned to the counties from which it was received. The expenses amounted to three hundred and eighty-two one thousandths of the total amount, and each district was assessed pro rata. Each county had to pay alike; but in twenty-six counties nothing was expended for reclamation. San Mateo paid in, first and last, eleven thousand dollars, and received six thousand nine hundred and sixty-seven dollars and seventy-nine cents, and expended in reclamation four thousand three hundred and six dollars and ninety-three cents; but that reclamation was not performed in that county. San Mateo paid for the building of levees in other counties. Fresno County paid thirty-nine thousand six hundred and nine dollars and eighty-one cents; it expended nothing in reclamation, but was taxed fifteen thousand one hundred and thirty dollars and ninety-four cents, and under the Act of eighteen hundred and sixty-eight was to receive twenty-four thousand four hundred and seventy-eight dollars and eighty-seven cents. The Legislature donated at one time eighteen thousand dollars for the improvement of the levee around Sacramento, which was paid out of the General Swamp Land Fund. Information of the manner in which the Fund was expended can be obtained from Mr. Green, in the Controller's office. There is no longer in existence a General Swamp Land Fund. There was three hundred and twenty-six dollars in the Fund two years ago, when, pursuant to an Act of the Legislature, the warrants for the amount were canceled. Contra Costa County paid into the Treasury twenty-two thousand six hundred and thirty dollars; it is assessed for eight thousand six hundred and forty-six dollars, and it received nothing. Sacramento County received more than she paid in; how much more can be ascertained from the Controller's office.

TESTIMONY OF JEFFERSON WILCOXON.

JEFFERSON WILCOXON testified that information concerning the affairs of Levee District Number Five can be obtained from S. J. Stabler, of Yuba City, and from Phil. Drescher, an engineer of the reclamation work of the district, who lives near Nicolaus. Drescher also did some of the reclamation work in Districts One and Two.

TESTIMONY OF GROVE L. JOHNSON.

GROVE L. JOHNSON testified that he held the position of Swamp Land Clerk of the Board of Supervisors, of Sacramento County, for nearly eight years. There were about thirty districts within the county. A great deal of the swamp land money is gone. In District Number Two a discrepancy of thirty-three thousand dollars was discovered. The records of other districts in the county show money paid in which is not accounted for. Witness discovered two warrants which had been issued in duplicate—issued a second time. Mr. Clark had the warrants. General Houghton said he knew of two such warrants that were out. Nearly all the applications for land in large quantities have been made for land which had been previously applied for, but to which the former applicants had forfeited their claim, by failing to comply with the law. In order that parties who have reclaimed swamp lands, may receive back their money from the State, it is necessary that they produce an affidavit, signed by the Trustees of the district, declaring that the parties have expended two dollars an acre in reclamation. There was a case before the Surveyor General concerning some swamp land in San Joaquin County, in which it was testified that the land had to be irrigated in the Summer time. B. B. Redding and Mr. Shanklin represented the parties interested in that case. Witness has heard that Chapman and another land man secured the appointment of surveyors to survey certain tide lands. Witness has, at some time since the passage of the Act of eighteen hundred and sixty-eight, been employed in the State Surveyor General's office, and is familiar with the manner in which surveys of swamp land are made and approved. An application comes in from the County Surveyor; the clerks who receive the application look at the map, and if they find that there is no application already on file for the land, the application is allowed, and the map properly numbered and filed away. If a man wants it approved he can have it approved then, or have it wait. If it comes under the law they look to see if it has been segregated as swamp land; if it has not been they notify the United States Surveyor General that it has been claimed as swamp land. If a survey comes into the office with the County Surveyor's signature to it, certifying that he had surveyed the land, the Surveyor General has the right to accept the survey. A large number of these surveys are undoubtedly made upon the ground; but witness thinks but few of the larger surveys are made upon the ground; and it is his opinion that surveys made without going upon the ground are not in compliance with the provisions of the law. These surveys are made by tracing a copy of the United States survey on tissue paper. Under this system of obtaining swamp lands, without actual surveys of the land being made, cases have occurred where speculators have secured titles to lands claimed by settlers under the United States laws, without these settlers knowing anything about it. He thinks the Sierra Valley case was of that character, and that there was a similar case in Inyo County, and, in fact, similar cases in nearly all the counties in this State. He is informed by Mathews, surveyor, that in Yolo County, the speculators got a man's ranch, and made him pay three thousand dollars for their title. Terry Wright, and a German, also had a similar experience with lands in Yolo County. Witness knows of no recourse which the settlers could have under the law, after their lands had been stolen in this way. He thinks

that if the committee should look after the swamp land money which has been paid in from the different counties, they could find it, or find where it has gone to. He believes that in Sacramento County alone, there must have been two hundred thousand dollars paid in for swamp land, and that two thousand five hundred dollars or three thousand dollars would cover the amount that came back. A great part of the reclamation that has been done in Sacramento County has been done by the owners themselves, by special taxes levied on their own lands, and collected by themselves. He thinks, that in the short time allowed them, the committee could trace up very little evidence as to where the swamp land money has gone to. In eighteen hundred and sixty-six, while he was Swamp Land Clerk of the Board of Supervisors, he undertook to obtain evidence of the affairs of the different districts, but failed. The books of the Board of Supervisors do not agree; the amounts received and paid out do not balance. He thinks it would be quite a job to trace up these matters, but that it would repay the State to have it done; it would certainly repay the swamp land men. The Supervisors of Tulare County sent to the Surveyor General to have an investigation made, to ascertain what had become of quite a large amount of money that had been applied to their district, and which they had never received. Mr. Coleman assisted in looking up the matter. An examination was also made into the affairs of District Number Eighteen, in Yolo County, and it was found that that district had not received the amount of money they were entitled to. Under the law and practice now in operation, a man may file an application for swamp lands and let it stand, without taking any further steps to secure title, until some one else desires to purchase it or settles on it; then, when the second party, or settler, wants to buy it, a year or two later, the application of the first party prevents the second party from securing a title to the land. The same course is also followed with regard to school lands. On one day Col. Mauldin filed three hundred and eighty applications for school lands, none of which were in his own name; but they were in the names of dummies—these gentlemen who deed away their rights for two dollars and a half, etc. W. R. Cantwell, Police Judge of Sacramento, was one of these dummies. When witness was last in the office of the Surveyor General there were applications which had lain in the office for five years without having been acted on. The most of the swamp land applications were made for lands in the southern portion of the State, by Gurnett, Chapman, and James A. Johnson, who was County Surveyor of Tulare County. An application was filed for some land at Cottonwood, Tehama County, and the applicant wanted it approved; but witness was informed that a lady was living on the land, and notified the applicant of the fact, and notified him to contest; and upon his failure to do so witness approved the land to the lady. He thinks that there are probably applications for school lands, now in the Surveyor General's office, which were filed just after the passage of the Green bill, in eighteen hundred and sixty-eight. He saw on the books from four hundred to eight hundred applications for school lands, where the lands had not been surveyed by the United States. The speculators went all through Alpine, San Bernardino, and San Diego Counties, and into Los Angeles County, and filed on every sixteenth and thirty-sixth section, without reference to whether it had been surveyed or not; and in some cases several applications were filed for the same section—for one particular section twenty-three applications having been made. He thinks General Gardner is doing his best to clean up these matters. Persons

applying for school land were required to pay a fee of five dollars; but no fee was required in the case of applications for swamp lands. Mauldin did not pay the fees when he made the three hundred and eighty applications; an account was kept with some of the applicants. The fees required upon school land applications at first went into the State Treasury, or was supposed to; then an Act passed in eighteen hundred and seventy provided that the Surveyor General should use as much of the money as was necessary to be expended in the hearing of the claims, etc., and pay the balance in. Mr. Gardner has paid in from fourteen thousand dollars to sixteen thousand dollars; his predecessors paid in nothing. Captain Slade was employed by General Bost to make out new maps of the swamp lands in the State, and to plot out each survey by itself on the new maps; and in doing so he found a great many irregular and fractional pieces, and these were all filed for by Mauldin and others. John Mullin has filed applications for nearly all the swamp land in Districts Two and Three; he thinks there is something wrong about the old applications. These locations take in the lands of settlers. In District Eighteen, in Yolo County, there has been an immense amount of money paid in, and it is all gone. Upon the books of the Register of the Land Office, the locations are credited with their payments in the order in which they are made, without reference to the numbers of the districts. Of the three hundred and eighty applications of Mauldin, very few were made in Mauldin's handwriting, the remainder having been made out by witness, Alf. Estell, and Twitchell, clerks in the Surveyor General's office, who filled in the descriptions of the pieces of land, but put in no names. Mauldin paid the clerks to look up the vacant land. H. C. Logan filed for a great amount of school land, and sold it, and told witness he had made one hundred thousand dollars out of it. Witness does not know who signed Mauldin's application, but he read in the San Francisco papers that Mauldin had an office there, where men were going and signing away their interests in the lands for two dollars and fifty cents. The real man that got the lands was Asbury Harpending; the deeds were given by the dummy to Harpending, and from him to Mauldin. Most of the swamp land locations that came out of the Surveyor General's office were furnished by Twitchell, and witness believes that Twitchell has furnished all the information as to swamp land that went out of that office. Witness knows positively that Twitchell furnished all the information in regard to the land that was located over in Yolo County; he has been connected with the Surveyor General's office for many years. One of Mauldin's dummies notified the Surveyor General that he intended to keep the land described in his application himself, and he did so. The persons signing the applications were recognized as the owners of the land, but the attorney (Mauldin) was recognized in the office as the real owner. Herbert E. Hall filed applications for large bodies of swamp lands. The sixteenth and thirty-sixth sections in Fresno County were applied for by Logan, and Chapman, and Captain Mullins, and Mauldin. The parties who entered into the business largely did not always send money accompanying their applications, but, as a rule, Chapman did so. The land which Twitchell gave to Cary was, as a general thing, paid for immediately. Estell is the man that appears most of the time as applying for swamp land, and he would inform the San Francisco men that he had it. He gave some of it to Mauldin. Witness filed for some land on Sherman Island, and Mauldin sold it for him. On Sherman Island, the contract for the work of reclamation was let by J. M. Upham, Presi-

dent of District Number Fifty-four, to A. J. Upham, his brother. A. J. Bigelow was the President of District Number Fifty, and the contract was let to W. H. Patterson. A San Diego County lawyer applied to the Surveyor General's office to have certain locations approved, but as they conflicted with settlers' claims, they were not approved, but two or three days before General Bost went out of office he approved the locations. Witness has heard that a deed for that land was put on record by a friend of the parties interested, before the application was approved. The law provides that school land applications shall not be approved until the land has been listed over to the State, and the map has been on file for three months in the United States Land Office. An application was made by Henry Casey for lands in Amador County, and General Bost instructed witness to approve the application. The Register's certificate showed that the map had not been filed for three months, but Bost said, "It is all right," and told witness to approve the location, and he did so; and he afterwards ascertained that the location so approved was the Keystone Mine. He understands that Casey was acting in this matter as the agent of A. H. Rose, who went to Washington to try and have the Commissioner approve the location, but he declined to do so, on the ground that it was mining land. It was nearly the only case where General Bost asked witness to approve an application.

TESTIMONY OF JACKSON WILCOXON.

JACKSON WILCOXON testified that parties who had taken contracts for reclamation work in Levee District Number Five, in Sutter County, had sublet them to other parties; and he believed these statements well founded. There were rumors to the effect that the parties who sublet these contracts were parties who had interests in the lands themselves. It looked to him as if there was a kind of "contract and finance" arrangement there; he thought it looked very suspicious. In that district a contract was awarded to John Mahoney, but when he was approached by a party who wanted to take a sub-contract he denied having taken any contract, but said perhaps his brother might have. His brother, David Mahoney, was at that time President of the Board of Supervisors of Sutter County. D. Lyman and J. L. Wilbur have a certified copy of the record of District Number Five. On the eleventh of March, eighteen hundred and seventy-one, Parks and others filed a petition for the organization of the district, to contain one hundred and twenty-two thousand nine hundred and seventy-five and fifty-eight one hundredths acres; and about the twentieth-ninth of May they petitioned for a change of the boundaries of the district, or for the formation of a new district—this change being proposed because of the dissatisfaction of some of the smaller owners of land in the district as first formed. Now it has been certified to the Reclamation Fund Commissioners that the district has never been changed, but still contains one hundred and twenty-two thousand acres. Whether or not there is any land in that district which is regarded as swamp land, but which would not be strictly swamp land within the definition of the law, is a pretty hard question to answer. The witness thinks the reclamation work which has been done in the district could have been done for less than half what has

been paid for it. He does not think that five million dollars would accomplish the reclamation of the district on the present plan. He considers the doctrine of the contractors pretty good doctrine for the fellows who can make it win. He thinks the canceling of the bonds would be the most beneficial thing that could be done for the settlers in the district. He has not a particle of faith in the system of reclamation being pursued there. A man could put up the fourteen miles of levee which have been built, at a bit a yard, and make money out of it; and it has cost five hundred and fourteen thousand dollars. In some places the levee is six, seven, and eight feet high, and some of it is from fifteen to twenty feet high. The contractors received thirty cents per cubic yard, and fifty cents where the earth had to be hauled. [Mr. Kercheval, of the committee, said that he put up a mile and a half of levee in Sacramento County, which averaged about five feet in height, using Chinese labor, at a cost of about eight cents per cubic yard.] Witness has heard rumors to the effect that Drew & Carroll, in taking the contracts, were only acting under the orders of Parks & Co., but he knows nothing about it except from rumor.

TESTIMONY OF EDWARD TWITCHELL.

EDWARD TWITCHELL, clerk in the office of the Surveyor General of the State, testified that three or four years ago the surveys in a few cases of land in Sierra or Plumas County were approved by the Surveyor General before the lands had been segregated as swamp lands either by the State or the United States. There is no fee fixed by law for filing a certificate for swamp land in the Surveyor General's office. By an Act of eighteen hundred and sixty-one, provision was made for segregating swamp lands claimed by the State, under the direction of the State Board of Swamp Land Commissioners. Each County Surveyor was required to make segregation of the swamp lands within his county, and report to the Surveyor General; and segregation was made in nearly all the counties in and around the San Joaquin Valley, but none were made farther south than San Joaquin County, the State accepting the segregations in the southern counties as established by the United States. At that time the State had no official knowledge of any swamp lands in the mountain valleys, and the United States had made no segregations there of swamp lands. The only swamp lands in the mountains of which the State has now any official knowledge are swamp lands shown to be such by the United States surveys. Within the last two and a half years a great many surveys have been rejected because the lands embraced within them are not believed to be swamp; but in a great many cases parties claim to be able to prove that the segregations were properly made, and the surveys remain in the Surveyor General's office awaiting the action of the United States authorities. Quite a number of swamp land applications have lain in the Surveyor General's office longer than two years, some of them since long before witness had anything to do with the department; but these are contested cases, and he thinks there are none which have been lying there any very

great length of time, except contested cases, though there may be one or two. There was a considerable amount of land that was segregated by the State which the United States surveys declared to be high land. General Gardner adopted the rule that he would not approve any of those surveys until the question as to the character of the land was settled, although it was accepted by the State; and there are surveys of such land which have lain in the Surveyor General's office for a year or more. Occasionally some portion of this land will be listed over to the State by the United States authorities, and that removes the conflict, and the survey can then be approved. Before Gen. Gardner's term he thinks there were surveys which remained a very long time in the office without being approved. Swamp lands may be taken up in any quantities, from five acres upwards. The United States authorities surveyed the lands according to the irregular segregation lines, but General Houghton adopted the State rule of approving surveys according to the lines of legal subdivision; and the result was some corners and fractional pieces were left out from the State survey. There were about one hundred of these irregular subdivisions in the Visalia Land District, nearly all of which have been applied for by Simons and two others. By the first Act, passed in eighteen hundred and fifty-five, the purchaser of swamp land was limited to three hundred and sixty acres, which was sold on credit, without interest. The title to the land was given by the Secretary of State. The County Surveyor was required to make returns to the Surveyor General quarterly, and the party purchasing was required to make payment for the land within thirty days from the time of the survey; and the result was, a party would, in some cases, receive a title to the land from the Secretary of State, and a few days later the application would come into the Surveyor General's office, and be rejected. In eighteen hundred and fifty-eight that law was changed, and full payment for the lands required. In eighteen hundred and sixty-nine the law was again changed; the payment of twenty per cent was required, and the number of acres which a purchaser could take was increased to six hundred and forty. From time to time slight alterations were made in the law, until eighteen hundred and sixty-eight, when the Green bill was passed, which took off all restrictions as to the amount of acres which could be purchased. This bill was run through in the interest of parties who wanted to get large tracts, who claimed that all the available and desirable swamp land had been secured, and that nothing was left but the deep tules, and that if these tule lands could be purchased in large quantities they would be taken by capitalists who would reclaim them. Witness is not aware that any of the large owners of swamp lands have any connection with the Surveyor General's office, other than any private citizen may have. Witness owns swamp land; he has owned a farm on Sherman Island for fourteen years. There are a great many applications for school lands now in the Surveyor General's office that are suspended for various causes. The applications for swamp lands in Inyo County, by Earle, were irregularly made, and the State had no knowledge of swamp land there, and did not claim any there. Had Earle's applications been made regularly, and the State had no knowledge of the existence of the swamp land claimed, application should have been made to the United States Surveyor General, who would take steps to establish the character of the land. Witness is a surveyor by profession; and it is his opinion that if a County Surveyor was applied to for the survey of a tract of land which had never been surveyed, though surveys had been made of all the lands surrounding

it, any survey other than an actual survey made upon the ground would not be legal, unless the surveyor had the field notes of the surveys of all the lands surrounding the tract.

TESTIMONY OF S. J. STABLER.

S. J. STABLER testified that he is the owner of land in Levee District Number Five, in Sutter County; that the district was organized some time in eighteen hundred and seventy-one, upon the petition of Parks and others, representing a majority of the acres in the district. Witness signed the petition. He has an active business which engages all his time, and has paid very little attention to affairs in the district; Parks, Roberts, and Middleton, who had the largest interest in the district, attended to its affairs, and witness generally indorsed what they did. There was a second petition before the Supervisors, to perfect the reclamation in some respects, or to adopt a mode of reclamation. The area of the district was afterwards reduced. He has the impression that the contracts for the work of reclamation in the district was let by sections; that some were let and then sublet. The rates at which the contracts were let was nearly double the cash price paid for similar work in District Number One. Most of the work was done by the contractors themselves, he thinks. His assessment on six thousand four hundred or six thousand five hundred acres has been about one thousand four hundred dollars. He thinks the acreage of the district is one hundred and twenty thousand to one hundred and twenty-five thousand. The certificates—the sum represented by them has all been bonded. He thinks a majority of the bonds are held in San Francisco; the engineer, Reece, kept his; witness had but one, which he sold. From newspaper reports he thinks the amount of bonds now out is five hundred and seventeen thousand dollars, which is nearly all funded. The reclamation work is nearly finished; the upper end is almost completed; the Sacramento side is leveed by private citizens, generally, and the other side, down at the lower end, is high land, and no levee is needed there. The parties interested in the lands are of the opinion that the work has been done just as cheaply as it could have been done under the circumstances. He knows that the cash bids were about a bit per cubic yard; where it is nice, plain sailing, ten cents and less; then up to eighteen, and, where it is bad ground, a little more. Pennington, County Surveyor, estimates that it will cost ten thousand or eleven thousand dollars to replace the dam that went out at the upper end; witness estimates the cost at about twenty thousand dollars. He has never heard complaints from the large land holders as to the work and its cost; they have sometimes guaranteed to contractors the payment for the work done; but there are very many persons who are not satisfied, and they have held meetings, and agitated the matter in the newspapers for two or three months; they are perfectly clamorous. He does not know that Parks or any others of the large owners have been interested in the contracts, and believes they are not. The dissatisfied owners are mostly dairymen, who would rather have the land as it is than pay the cost of reclamation; yet the reclamation enhances the value of the land four hundred or five hundred per cent. District Number Seventy is a perfect success,

and some of the same parties own land in it; before reclamation it was worth three dollars an acre; the cost of reclamation was about six dollars and fifty cents per acre; and the land is now sold for twenty to twenty-four dollars an acre; and witness owns land there which he values at thirty dollars an acre; he can net one hundred per cent more for the land than he could have done had it not been reclaimed. The dissatisfied owners say that a lot of land grabbers are heaping a debt upon them that they cannot pay, and that it will bankrupt the county; others are opposed to the reclamation because they say it backs water on their land; he is not satisfied that he knows the cause of their dissatisfaction. In District Number Seventy some parties contest the tax now. He has known of their selling land there for twenty dollars per acre, which, before the reclamation, was worth about three dollars; and still they haven't paid that tax; they sold it and gave a bond that the tax shall not come against the grantee; they would either defeat it or pay the tax themselves. There is land there that would not feed a sheep until the water was kept off, and now they can pasture stock on it, and put it in hay some years. Where the land is comparatively high the owners are not assessed for more than one third or one quarter as much as those who hold the deep tule lands; the law providing that the Commissioners shall assess each forty-acre tract according to the amount of benefit it receives, and an appeal from this assessment can be made to the County Judge, who will equalize the assessments. Chapman took up forty-one thousand acres in District Number Seventy; he sold ten thousand to Roberts, and still holds the rest. When the Reclamation Fund Commission was constituted it was supposed that all the districts would have their debts funded, but on account of a law suit that was pending and which would affect the districts, none of the districts, except Number Five, availed themselves of the provisions of the law; and as the salaries of the Commissioners were to be paid by assessments on the districts, District Number Five has been compelled to pay twenty thousand dollars, the whole expenses of the Commission, but, he believes, with the understanding that when other districts should come in, District Number Five should get back all except their share of the money; but no others have come in, and District Number Five has paid it all. The lawsuit referred to was decided three weeks ago in favor of the swamp land district. It is proposed now that the Supervisors of the districts shall manage the affairs now attended to by the Commission; he thinks the Supervisors could have managed these affairs very well. The bill was to make the Governor, Secretary of State, and Controller ex officio Commissioners; but as the people wanted to take it out of the hands of State officers, they appointed the present Commissioners. The owners in District Number Five did not anticipate that their expenses would be over twenty-five hundred dollars a year, and had no supposition that they were to be mulcted in such a sum as they have paid in; and he thinks they had some sort of an understanding with the Commissioners that twenty-five hundred dollars should be the share of the district. The earth used by the contractors is not hard to remove; along the river there was considerable underbrush, but he should say it was easily removed. Where the levee went away was the heaviest work; for half a mile it was probably fourteen or fifteen feet base and averaged twenty feet high. The slope on the water side was about four feet to one, which was the right slope; but on the other side it was just as little as could be had, but it should have been about two feet to one.

TESTIMONY OF J. L. WILBUR.

J. L. WILBUR testified that he knew considerable about Levee District Number Five, and about the reclamation work in that district. No contracts have been let since eighteen hundred and seventy-one, and the prices of the work in the contracts varied from twenty to fifty cents per cubic yard. He has eighty acres in the district, which he has applied for as State College land, and he or his brother owns a quarter section there. He has owned considerable there, but sold it. The method pursued in letting the contracts was this: Bids were advertised for in eighteen hundred and seventy-one, and after certain subdivisions had been let to various parties, the contract for all that remained was let to Drew & Carroll, who did little, if any, of the work. It is supposed that Parks took all that Drew & Carroll were to take, and sublet it to other parties. There is a certificate from the engineer with every claim that is put in, giving the number of cubic yards of levee which have been constructed, and for which the payment is due to W. H. Parks; that appears on the record. District Number Five was formed on the eleventh of March, eighteen hundred and seventy-one. A petition was filed on the last day of the session of the Board of Supervisors, and it was the last thing they attended to. About the twenty-ninth of December, eighteen hundred and seventy-one, the Court House of the county was burned, and perhaps this petition was burned in it; and if there were any bonds given for the execution of contracts, they were probably burned. The district was formed under a special law for Sutter County, which authorizes the majority of acres to form and control a district. Within the exterior boundaries of the district there are probably thirty thousand or more acres of arable land—dry land—which is equivalent to about one third of the district. The field notes of the district survey allows the district to go no further north than the north line of Township fifteen north, one east. In practice and in fact, the district goes seven miles north of that; but on the official map the boundary is traced to the north line of the county. Upon a map produced by witness, which was gotten up by Parks and others "for the purpose of catching gudgeons," one district of land, which is as good land as there is in the State, and raises fifty bushels of wheat to the acre, is marked "leveeing completed." At a portion of District Seventy where a steamboat could be run, it is marked on the map "reclamation completed." The law requires that bonds to double the amount of the contracts shall be filed by the contractors, and that the contracts shall be completed within four months; but the contracts were let in June or July, eighteen hundred and seventy-one, and completed, if at all, in December, eighteen hundred and seventy-three; and the Clerk of the district informs witness that there are no bonds filed. Since August twentieth, eighteen hundred and seventy-three, upwards of ten thousand dollars worth of bonds have been issued to T. W. Reece, assistant engineer of the district. The law makes the County Surveyor ex officio the engineer of the district, at a salary of eight dollars per day in scrip, but the Supervisors may allow any amount they please for assistants, and they have allowed Reece fifteen dollars a day. Part of the levee, witness has been told, was cut a year ago last Winter. From eighteen hundred and fifty-six to eighteen hundred and sixty-three considerable swamp land was taken up in Sutter County, on

which twenty per cent, and interest from time to time, was paid. In eighteen hundred and sixty-nine the District Attorney brought suit to annul the certificates where the parties were delinquent, and compel the payment of interest then due on different swamp land purchases, and provide for the issuance of new certificates. Quite a large number of certificates were annulled; and some parties made deeds directly to the State, and forfeited their claims on the lands, and then, in person or by their friends, filed new applications for the land, and retook it, to escape in this way the payment of their delinquent interest. All the lands, the titles to which were foreclosed, have been retaken, and twenty per cent and some interest paid, and the money so paid sent back to the County Swamp Land Fund. The money paid in by purchasers prior to the foreclosures or the abandonments of title, has not come back. In one case where land had been taken and one hundred and thirty dollars paid on it, and afterwards had been abandoned, witness retook it; and the money he paid in on it never came back. The bills for reclamation work done in District Number Five, which were presented to the Supervisors, read as follows: "Sutter County, debtor to William H. Parks, for building levee (so many cubic yards), (so much)." While Mahoney was one of the Board of Supervisors a contract for reclamation work was let to his brother, who, upon being approached by a party who wanted a sub-contract, declared that he had not bid for a contract. The contract was let to Lee & Mahoney, and witness understands that this contract was continued up to eighteen hundred and seventy-two. The payment of ninety-six thousand dollars, and the other payments made to Parks, were all made in the Fall of eighteen hundred and seventy-three. Witness does not know who built the first dam, nor who built the levee near Nicolaus, but he saw some Chinamen working there last Fall. He saw Bishop at work there in the Fall of eighteen hundred and seventy-one, and has been told that a large portion of the levee constructed by Bishop has been washed away. N. F. Nelson told witness that trees had been chopped down on the line of the levee there, and left hanging to the stump, and then brush packed in around them, and earth thrown over that; that chunks and logs and brush were thrown in on the old levee where it washed away. Evidence as to the subletting of these contracts can be obtained from W. H. Perdue, who took one of the contracts; but witness has been told that this was a mere bait; that Perdue took this contract for the sake of leading others in, and never completed it. J. P. Bainbridge took a contract which never has been performed, for leveeing on that portion of territory which Parks claims is not in District Number Five. The dam at the Buttes did not have the amount of slope spoken of in Pennington's specifications, which was two feet on the outside, or dry land side, to one foot perpendicular, and three feet to one foot on the inside. He thinks the dam at the Buttes had the specified amount of slope on the water side, but on the other side it was not more than one foot slope to one foot perpendicular; it was just as nearly perpendicular as it could stand up to. Immense chunks of earth were put in there—just piled in any way, to get it in. May twenty-ninth, eighteen hundred and seventy-one, Parks and others, making the majority in interest, presented a petition to the Supervisors for the exclusion of certain territory from the district; and on the twentieth of August last a certificate, signed by one of the Supervisors, and with the seal of the Clerk attached, that the boundaries of the district had not been changed since its formation, was

sent to the Surveyor General; he does not know the object of this certificate, unless it was to get the money into the Swamp Land Fund.

[A copy of a certified copy of the records of Levee District Number Five, which was in the possession of Mr. Wilbur, will be found in this transcript.]

TESTIMONY OF WILLIAM H. PARKS.

WILLIAM H. PARKS testified that he is interested in Levee District Number Five, and has been active in its affairs since its organization. Previous to the passage—a few days ago—of a bill striking out about five thousand acres of Wilcoxon's land, the area of the district was, in round numbers, one hundred and three thousand acres. There is not an acre of land in the district, to his knowledge, that is actually arable dry land. About sixteen miles of levee have been built; some of it twenty feet high, some twenty-one, and in one place as much as thirty feet high. At the point where it is twenty feet high, it was within one thousand feet of completion when the water rose last Winter. In one place it is twenty-one feet, and then runs down to nothing; some of it has been built twice. About seven hundred or eight hundred feet broke in one place last season, but the rest is all right. The contract was first let to Drew & Carroll, for the whole work, with the exception of two or three miles. They made arrangements with their brothers to give them half the profits, for furnishing the necessary funds to pay expenses; but the brothers afterwards declined to furnish the money, and Roberts and witness came in and furnished money to complete a portion of the work. Drew & Carroll built altogether about three miles. Then the farmers who had contracted to do the work not contracted for by Drew & Carroll, found themselves unable to pay the expenses of having the work done, and witness furnished them the money and took their scrip. The farmers who bid were the owners of the land over which the work they bid for was to be done, their bids having the preference to the bids of outside parties at the same price. The contract to Drew & Carroll was let at thirty cents per cubic yard, where the dirt was put in with plows and wheelbarrows, and fifty cents where it was put in with carts. The contracts to the farmers were let at twenty-eight and twenty-eight and one half cents. No contracts except those let to the farmers were let for less than thirty to fifty cents. The security for the money advanced to Drew & Carroll was the swamp land scrip. The district was organized under a special Act for Sutter County, and the work was to be paid for by scrip upon the Fund. The law limited the tax to two per cent of the value of all the property in the county, and as the district was not thickly settled, there was very little personal property, so that nearly all the taxable property was land. The accounts for the work performed were audited to Drew & Carroll, who drew the scrip, or witness drew it upon an order signed by Drew; and Drew subsequently gave him a power of attorney to draw the scrip. The accounts were always audited by the Board of Supervisors, upon the report of the engineers, to Drew & Carroll, who subsequently assigned the account to witness. The first year it was all audited to Drew & Carroll, and afterwards to him, as assignee of Drew &

Carroll. Roberts took fifty thousand dollars of Drew & Carroll's first account. Witness was unable to carry the whole of it, but negotiated with other parties, who took some of it. When they got through, the bill, including nearly two years' interest, which was due at the time the bonds were issued, and including the pay of the engineers, was about two hundred thousand dollars. The law made the County Surveyor ex officio engineer of the district, at five dollars a day, which was all he received; but his assistant was allowed and received fifteen dollars a day, in scrip, which was considered worth about seven dollars and fifty cents in coin. A culvert was to be put in, and it was a very peculiar and difficult thing to do; and the Board authorized the engineer to perform the work, and present vouchers to them for the material and labor; and he did so, and received nine thousand and eight dollars, or nine thousand and eighty dollars. The amount paid for material and labor was all given in one bill; and witness paid the money for the scrip himself. The number of cubic yards of dirt that has been deposited in the levee can be ascertained from the accounts on file in the Supervisors' office. Witness let a sub-contract this season, and paid for about eighty thousand yards of dirt that had been deposited where a portion of the levee had been washed away. The levee was cut at the place where it was strongest, and the first year's work was almost entirely lost, as the levee had to be built over again; and the cost of reclaiming the district would have been much less had it not been disturbed. It has been built up again, and, although it has settled a good deal, it remains intact, except two hundred or three hundred feet, which has broken. One portion of the levee was put in with carts, yet he received but thirty cents per yard for it. He thinks he could have claimed fifty cents per yard for it, under a fair construction of the contract. It might have been done with wheelbarrows, but it could be done cheaper with carts. Before the organization of the district, considerable levee was built, and warrants were drawn on the Fund to pay for it; the warrants, with the interest included, were funded, and bonds issued for them at par. The settlers did not seem to fear that, because there was not a continuous levee along the river, the water would overflow their lands when it rose. If the first plan had been carried out, there would have been no trouble; but the small owners being dissatisfied, they came before the Supervisors, represented by a committee, of which Judge Hurlburt was the Chairman, and they said: "We have no objection to your reclaiming your own land, but we don't want anything to do with you." He said to them, "I should be ashamed to leave you out, because it would leave you between two rivers, or in the river; but if it is your desire, and you will give us five days to get a petition up, we will get one up for the altering of the district." So the Board reconsidered the vote by which the district was organized; and with the committee a compromise was fixed upon, and the boundaries of the district were changed so as to leave these men out. Then the question was raised as to the authority of the Board to make the change after the district had once been organized; but witness said, "If you agree and we agree there will be no trouble in having the Legislature ratify the action of the Board, and we will favor such legislation." Then the original plan had to be changed because the levee would extend a very little way into Colusa County, where they would not be allowed right of way. Then it was found that it could be built cheaper on the river—along the Sacramento River it takes a levee of from eighteen inches to two feet, and the high land

is not continuous for over twenty or thirty rods. He thinks there is none of this land which does not overflow at the highest water; the high water this season nearly covered it. The farmers along here are the men who created the opposition, and they have all got little levees along the river; and they will have to be depended on for protecting that section. It is barely possible that some of the land may be overflowed for a few years. He never received a dollar in money for building levee; all he received was scrip, and has all been paid upon the report of the engineers of the amount of work done, and the vouchers are on file in Sutter County, and were given under oath. He has never himself made a bill against the district, nor put in a bill for work done. About December first he received ninety-three thousand dollars or ninety-six thousand dollars in scrip, and thinks he received some scrip in September, but does not know the amount. In the case of the work done on the sub-contract let to Chinamen, he made no profit; and the more the Chinamen got per yard, the more it was out of his pocket. He never took any contracts indirectly for this work, and no other person ever took any contract on his behalf, or in which he received a share. Drew & Carroll took the contract, and he engaged to pay their bills; Carroll retired from the firm, and Drew carried the work on alone, and witness made the amount that he paid out a personal account against Drew, and took his scrip at fifty cents on a dollar. Afterwards Drew died, and before his death transferred the contract to witness, withholding an interest in it for the benefit of his [Drew's] wife; and in accordance with an agreement between her and witness, he last Fall sent her two thousand dollars. He has always urged farmers and others to take contracts for the work. A portion of the levee on Feather River was built by Hanson, and with that witness had nothing to do. The contract sublet to the Chinamen was for thirteen to eighteen cents in cash, per cubic yard, and witness furnished the wheelbarrows and wheeling plank. Drescher, the County Surveyor, put a wooden gate in the levee at one place, but never presented the bill for it, and it has since been washed away; but as the timbers remain, they may be able to rebuild the gate, and receive pay for it. Every one has profited more by that work than witness. Before the district was organized, an agreement between the owners and the Fund Commissioners stipulated that the district should be assessed twenty-five hundred dollars a year for the expenses of the Commission, besides which the district would have to pay sixteen thousand dollars interest on the two hundred thousand dollars worth of bonds which had already been issued; but after the organization of the district the Commissioners proposed to tax them sixty thousand dollars or seventy thousand dollars for expenses, but finally reduced the assessment to sixteen thousand dollars, making, with the interest, thirty-two thousand dollars; which amount they have received from the district. The Commissioners justify themselves for levying a tax of sixteen thousand dollars for expenses, on the ground that they could get their salaries in no other way. They claim that the agreement to take twenty-five hundred dollars for expenses, was but for the first year; but even then they assessed and collected sixteen thousand dollars for that one year, which only expired on the first Monday of the present March. The managers of the district, however, would rather let that pass than have the bill now before the Legislature to abolish the Commission fail.

TESTIMONY OF ROBERT GARDNER.

ROBERT GARDNER, Surveyor General, testified that applications for about seven thousand acres of swamp land in Humboldt County are on file in his office, in the name of J. W. C. Coleman. A portion of the applications were made in November, eighteen hundred and seventy-one, and the remainder in March, eighteen hundred and seventy-two. Before the filing of the applications in March, eighteen hundred and seventy-two, witness received several communications from residents of Humboldt County, requesting that no action be taken on the surveys until they could file a protest, which he afterwards received. Upon examination, he found that the surveys in some cases covered navigable sloughs, and that in some cases the lands applied for were within two miles of a town, and were, therefore, exempted from sale under the law; and a large portion of the applications were for land around the mouth of Eel River, which, up to that time, had been supposed to be navigable for shipping. After an investigation into the matter, the original applications were approved, to the amount of about three thousand acres, for two thousand acres of which certificates of purchase have been issued, the certificates for the remainder being withheld, because the office has no evidence that payment has been made on the applications which cover them. The amount of applications unapproved represent four thousand and seventy-two and eighty-nine one hundredths acres; and of this amount, he thinks not over one thousand acres can be approved in any event, after the sloughs have been meandered. If the matter were pressed, no more of the surveys could now be approved. When an application for swamp land comes into the Surveyor General's office, it goes into the hands of the swamp land clerk, and if there is no conflict, or a protest filed, or any other good reason appearing on the records why the applications should not be approved, they are not allowed to lie unapproved for any great length of time, although the law makes no stipulation in regard to the length of time they may lie unapproved. The time of forfeiture ends fifty days from the date of the application; if payment is not made by that time, the lands revert to the State. Coleman's applications did not take in nearly all the swamp land in that region. During the session of the Legislature of eighteen hundred and seventy-one-two, Mr. Russ, Assemblyman from Humboldt County, introduced a bill to withdraw some of the lands embraced in Coleman's applications from sale by the State. The bill passed the Assembly, but did not reach the Senate. The unapproved applications are a nullity on their face, because the law says that no swamp lands that are within two miles of a city or town can be sold, and these lands are within two miles of Arcata or Eureka; but the applications remain on file, because the law does not require that they should be returned, and the repeal of the present law, or some special legislation, may yet make the applications good. In regard to the Inyo County surveys, he has, in fact, actually rejected the applications, and he simply allows them to remain on file, as he wants the member from that county to see the evidence here. He proposes sending them back to the county as soon as the Legislature adjourns, stating as the ground of his objection to approving the applications, that the State does not own or claim, or propose to claim, the land. Since assuming the office of Surveyor General, he has approved one thousand eight hundred school land applications, which were on file in the office at the commencement of his term.

TESTIMONY OF A. N. GUPTILL.

A. N. GUPTILL testified that he is a clerk in the Surveyor General's office; that about March, eighteen hundred and seventy, A. D. Sevier, then Sheriff of Humboldt County, left with him a bundle of applications for swamp lands in the name of Coleman, with the request that they should be delivered by witness to Murray, the County Surveyor of Humboldt County, upon his return, he being then absent from his office; and upon Murray's return witness gave him the applications. When he assumed his duties as Clerk in the Surveyor General's office, he found some of the applications on file, and the remainder were filed in March, eighteen hundred and seventy-two. It occurred to witness that the bar would probably be injured if the reclamation of the swamp lands around Humboldt Bay were undertaken; and upon his consulting with the people at Eureka upon the matter, they got up the protest against Coleman's applications being approved. The last of January, eighteen hundred and seventy-two, in section twenty-four, township sixth north, range one west, which was covered by the surveys of Coleman, there was a vessel loading—a vessel that would carry about one hundred and eighty thousand feet of lumber, the usual size of vessels that run in Humboldt Bay, and there is now a large steam mill in that vicinity, and the lumber from the mill is shipped from that slough, as witness is informed. He does not suppose there is a month in the year when a vessel does not go up that slough, in section twenty-four, for produce or lumber. He would not take as a gift and pay taxes on the lands covered by Coleman's applications.

TESTIMONY OF WALTER F. RAND.

WALTER F. RAND testified that on the twentieth or twenty-first of March, eighteen hundred and seventy-four, he had a general conversation with General Hardenbergh about the taking up of lands in this State. In that conversation he thinks he mentioned no definite facts, but he told the General he had a general belief that frauds had been committed, and in this connection the names of Chapman and others were used. He is acquainted with Chapman, but has not spoken to him for two or three years; had business connection with Chapman for some time. Chapman was anxious to obtain certain papers, consisting of private correspondence between a man in Minnesota and Chapman, some papers that Page, of San Joaquin County, was interested in, some powers of attorney which Chapman, he believes, had forged, and certain forged documents, which tended to show the fraudulent manner in which lands have been taken up in this State. These papers were taken from Chapman's office by Allee, his clerk, and Chapman believed that witness knew of their whereabouts. He never saw the papers, but Chapman, he supposed, had been told by Thomas Moore, of San Mateo County, that witness knew where the papers were. He only knows Moore to speak to him, and never had any business relating to land matters with him. Chapman told him he had a great deal of Sioux scrip. He thinks there was something fraudulent about Chapman's operations in taking up land; knows that he floated Sioux scrip over

McPherson's land in Mendocino County; Chapman himself told him so; and afterwards McPherson, through Allee, obtained possession of the papers referred to, and Chapman settled the matter with him, by releasing all his right, title, and interest in the land, and paid McPherson eighteen thousand dollars, besides his attorney's fee of six thousand dollars to Hall McAllister, and gave Allee six thousand dollars, making a total amount of thirty thousand dollars in money, which was paid for securing the papers. He understood that the powers of attorney, by which the scrip was located, were forgeries, committed by Chapman; and understood that a man in Minnesota, whom Chapman used to speak to him about, was connected with him in these forgeries. Chapman said to him: "These things will never do to get out; it has cost me thirty thousand dollars already; if you can save me do it, any way in the world." He negotiated for this correspondence, at the request of Chapman, and failed; he received a small amount of money from Chapman for his services in the matter, but his remuneration was mostly contingent; he understood that if he was successful in obtaining the documents he would receive lands in San Joaquin Valley—the amount of land to be proportionate to the amount of papers he should secure. He knew of one piece of bogus scrip having cost Chapman fourteen hundred dollars. He knows that a great deal of this bogus scrip was located in the San Joaquin Valley. Persons in Chapman's interest, in some cases, went in and took up land and lived on it, and in the course of a short time Chapman would have their claim to the property. These persons were not actual settlers, but were acting merely in Chapman's interest. He would get parties to file for the land, and then sell it to actual settlers at a round price, when it had cost him a mere nothing. John O'Connell, a liquor dealer in Virginia City, and Frederick Harkness, of Santa Barbara, know considerable about Chapman's transactions. He has heard that Chapman was the means of having fraudulent papers signed by a Notary Public. He first went to Chapman, at the suggestion of Moore, and after conversing with him, Chapman said: "There isn't three men in this State that know what you know." He went to Chapman's office knowing not a great deal, but Chapman told him a great deal. He never was in the employ of Chapman, strictly; he went, once or twice a week, to his office, and talked with him about his business generally, and Chapman was very anxious to protect himself and all his associates, and it cost him a great deal to obtain the correspondence and other papers referred to. He was anxious to secure the powers of attorney which were in the names of certain Indians, who had afterwards made their appearance. Chapman said to him, "I want you to get those papers, by any means you may resort to." He tried to obtain possession of them, and came near being successful. Upon his settlement with McPherson, Chapman received some of the papers, but they did not contain what he wanted; this was about two or three years ago. His connection with Chapman was well known; and when it was reported that Chapman had employed parties to get Allee out of the way, witness, at the request of Chapman, made an affidavit to the effect that no propositions of that kind had ever been made to him. Chapman had litigation with R. C. Page, who has taken up a good deal of land in San Joaquin Valley, and was anxious to obtain certain receipts which had passed between Page and himself. He used to think sometimes that they had a mill for manufacturing this scrip, and could turn out all they wanted; but had no very direct information on that subject.

If matters had been pressed in that year, a great deal might have been found out about Chapman's transactions, which cannot now be found out, because everything has been covered up—the papers destroyed. He don't think Chapman ever told him in direct words, but from what he said in conversation, witness came to the conclusion, that there was scrip that had been manufactured—that was bogus. He thinks Chapman said something to the effect that this scrip had cost him nothing; he said that there was very little of it that cost him anything. He said that in the settlement with McPherson he didn't regret so much the releasing of the property, because it had cost him very little, and he could afford to lose that, but he didn't like to lose the money. Besides the thirty thousand dollars referred to, Chapman afterwards paid a note for twenty-five hundred dollars, which was, at the time it was paid, in the hands of Mr. Young, a clerk in Latham's bank.

REPORT

OF

Committee on Land Monopoly.

REPORT.

MR. SPEAKER: Your committee to whom was referred Assembly resolution, "To take into consideration the subject of land monopoly, and to offer some remedy therefor," beg leave to report that the influence of land monopoly on the welfare of a people has ever been of a character the most injurious. Our own State has felt its blight so severely that the people are almost unanimous in protesting against it, while the press, without an exception, we may say, call loudly upon us for such action as may best not only check the growth of this evil, but shall ultimately exterminate it.

Land is as much the support of animal and vegetable life as water or air. Without either, no living thing could be, and land is, therefore, one of the primal necessities of human existence. Land cannot be created by man—there is only so much of it in a nation, and that amount may not be increased—hence those who own the soil of any country make all others who live therein pay tribute for the liberty of remaining in their native land.

A LANDED ARISTOCRACY.

*This tribute is generally demanded in the form of rents, as in the British, German, Italian, and other European nations, and is the foundation and sole maintenance of the aristocracies of those countries, who, without manual labor or mental effort, riot in affluence, while those who till the soil, and who produce all material for food and raiment, often cannot get enough food to support life. But this noxious system is, we are told, of the Old World, and belongs not to the New. Here it would not be tolerated, and here it can never exist. The aristocrats, who are the land monopolists of those countries, are also the law makers, and have invented the policy of entail and primogeniture, to retain those great possessions forever in the family.

Did ever those who use this argument in defense of land monopoly in the United States, consider that, with the exception of this law of entail and primogeniture, our land laws are but a copy of the European laws? While here, the domain can be kept from the eldest son and may be divided among all the children, or given to none of them, there is nothing to prevent the eldest or youngest from having all, and adding to it ten or fifty or a hundred times as much. In Europe this addition can

rarely, if ever, be made, for there the monopolist cannot sell beyond his own lifetime—hence, no seller, no purchaser. But here land is for sale always, and there is no limit to the acres, or the township, or the counties, a person may own.

Land having been made by our common Father in Heaven, for the sustenance and comfort of all his children, just as for this purpose he created the air we breathe and the water we drink, it should not be a subject of monopoly any more than water or air; and nothing could appear more preposterous than for capitalists to measure off the air, if that were possible, and charge all others, or those who come into the world after them, a tribute for breathing—yet they have just as much natural right to charge man for breathing the air as for living on the land. But we do not undertake to cast any reflections upon those who have, in this State, acquired large landed possessions in a legal manner. Here the people are the law makers, and if a wrong like this is permitted, the fault is theirs alone. It is the unjust system which we object to—a system copied from the feudal ages, when the Barons or military chieftains owned not only the soil, but the people who lived upon it, and who were a part of their possessions as much as their acres.

SOME FIGURES.

The annual rent roll of the Kingdom of Great Britain and Ireland amounts, as per best estimates, to seven hundred and thirty million, equal to one third of our national debt, which sum is divided among fifty thousand landlords, ten thousand of whom receive more than half the sum. This vast sum, forced by fraud from the thirty-one million population of these isles, is twenty-three dollars and fifty cents per capita, which they pay every year for the privilege of living in their native land, and this, too, in addition to general and local taxes. But this system can never prevail here, says one. Why not? What is there to prevent it? Already, in California, young as the State is, new in her civilization and sparsely populated, we have among us men who lord it over as many acres as the greatest of these European lords.*

A COMPARISON.

The entire area of the kingdom named is but one hundred and twenty-one thousand square miles, which would give the fifty thousand landlords but one thousand five hundred and forty-nine acres, or less than two and a half square miles each; while the great State of California contains one hundred and fifty-nine thousand square miles, and has already upon her surface, according to the report of the State Board of Equalization for eighteen hundred and seventy-three, one hundred and twenty-two land holders, each of whom owns twenty thousand acres and upwards; sixty-seven of whom own an average of seventy-three thousand acres, or one hundred and fourteen square miles each; one hundred and fifty-eight who own ten thousand acres each, and not exceeding twenty thousand; two hundred and thirty-six who own five thousand acres each, and not exceeding ten thousand; one hundred and four persons who own four thousand acres, and not exceeding five thousand, each; one hundred and eighty-nine who own three thousand acres each, and not exceeding four thousand; three hundred and sixty-three who own two thousand acres each, and not exceeding three thousand; one thousand one hundred and twenty-six who own over one

thousand acres each, and not exceeding two thousand acres. In all, two thousand three hundred and twenty-five persons who, according to the calculation made by the *Sacramento Record*, own sixteen million eight hundred and ninety thousand six hundred and fifty acres, being an average of seven thousand two hundred and sixty-five acres, or eleven and one fifth square miles, each—being an average holding of more than four times as much as the average holding of the British landlords.

ANOTHER COMPARISON.

The population of California is set down in the census of eighteen hundred and seventy, at five hundred and sixty thousand two hundred and forty-seven; hence, one person in every two hundred and forty-one of our inhabitants owns seven thousand two hundred and sixty-five acres in his own right, while in that land monopoly-ridden country of Great Britain and Ireland, there is but one land monopolist to six hundred and twenty of its population, and he averages but one thousand five hundred and forty-nine acres. At this rate, while the area of the United Kingdom of Great Britain and Ireland, with its one hundred and twenty-one thousand square miles, is owned by fifty thousand landlords, the State of California, with its greater area of one hundred and fifty-nine thousand square miles, would be owned by fourteen thousand and seven landlords. If the British land owners held in as large tracts as the California monopolists, the soil of that kingdom would be owned by ten thousand six hundred and fifty-nine persons. This shows that land monopoly in California is nearly five times greater than in Great Britain.

This chief curse of civilization, upon which all minor monopolies are founded, is fast attaining such vast proportions in California, that it promises to soon become so powerful as to defy opposition, just as it defies all attempts to curb it in the Old World.

But we may be told that the evil came down to California from our treaty with Mexico, which bound us to maintain in their rights the grantees of that Government. To some extent this is true; yet the largest holdings are now in the San Joaquin Valley, on land over which there was no foreign grant. The evil, then, comes not from Mexico, but from ourselves—from our bad system of land laws, which your committee propose to radically correct; as it must be apparent to all that they should be corrected. That this public wrong should be abated, all thoughtful men not interested in its perpetuation will freely admit; but there may be much difference as to the mode of attaining that end.

Among the several plans proposed for striking at the root of the evil (for we do not propose, here, to discuss temporary remedies, such as calling in the payments for swamp and other lands sold by the State—which, however, we think ought to be done—as your resolution under which we are acting evidently contemplates permanent relief), are graduated taxation, the policy of making land pay all the expenses of government, and land limitation. Either of these might be effective in bringing about, in time, the desired result. The two former would require amendments to the Constitution, declaring the fact, or empowering the Legislature to declare it, while we can see nothing in that instrument inhibiting land limitation. Indeed, so far as corporations are concerned, the laws of California now “limit” the amount of land

they may hold, and to apply this just principle to individuals also, could not work a hardship on any. We would not propose to disturb any one in his possessions—permitting each to hold whatever land he may possess at the date of the Act taking effect, while he lives, if he so choose, and after his death, allowing five years for his heirs to dispose of the surplus.

Thus, in a generation, land monopoly would be extinguished, without injury to any, and with benefit to all. These large possessions, now such an incubus upon the energy and prosperity of the State, would crumble away, from day to day, gradually, as men die, until, in, say twenty-five years, there would be scarcely one land monopolist within our borders.

But lest any law passed by this Legislature to prohibit land monopoly might be repealed by a succeeding one, we suggest and herewith recommend certain amendments to the Constitution; one limiting the amount of land any person may hereafter become possessed of and control, and another requiring graduated taxation upon land.

THE TIMBER LANDS.

At present there are bills pending in Congress providing for the sale of the timber and grazing lands of California, and the people seem anxious that these lands shall be so guarded as to prevent monopolization, and to this end their authors have inserted clauses prohibiting any person from purchasing more than six hundred and forty acres of either, and making him swear, under heavy penalties for perjury, that he purchases it for his own sole use and benefit, and that he has no understanding, direct or implied, to purchase for another. This is, perhaps, all the guards that Congress can now establish towards preventing monopoly of the lands in question; but we submit that the object cannot be thus accomplished. Men can be found who will swear falsely for hire; and even if subornation were impossible, there is nothing in the law in question, or in any law, inhibiting one man, or a company, from purchasing from others ten thousand, one hundred thousand, or one million acres of this land, and doubling or trebling the price of timber in a short time.

Timber is used in all commercial undertakings, as building a house, a boat, a bridge, a railroad, in making a wagon, plow, harrow, spade, shovel, or any farming utensil; in making sidewalks, streets, furniture; in fact, like iron, it is indispensable to civilization. We cannot get timber from abroad, save at enormous prices for freight, hence we must rely on our home supply. By the purchase of the frontier timber lands, those near streams or other means of communication, two million dollars properly handled, might, in a short time, monopolize the timber trade of the coast, and all the people would have to pay advanced prices for that article, as timber cannot be grown in much less than a quarter of a century. It becomes, therefore, as we view it, the absolute duty of the people's representatives in this Legislature, chosen on an anti-monopoly basis, to protect the public from this impending danger by declaring now, before the Government has parted with these timber or grazing lands, that no person shall own or hold more than six hundred and forty acres of the former, nor more than one thousand two hundred and eighty acres of the latter; and accompanying this report we present a bill having this object in view. If, after consideration by this House, it shall be deemed advisable to make it applicable to agricultural lands as well,

that object can be easily accomplished; but your committee thought it prudent not to hamper it thus, lest it might meet with opposition from that quarter, and thus defeat their object in having a law passed now to prevent the monopolization of the timber and grazing lands, which we deem in danger (especially the best timber lands) of being gobbled up by a few speculators within a short time after they shall be put upon the market.

Your committee have examined a large number of witnesses in relation to land matters generally, which we report back for the consideration of the Legislature, and the people of the State. We would recommend the passage of Senate Bill number four hundred and sixty, entitled "An Act to continue and complete the investigation into the alleged frauds in the various land departments of the State of California and of the United States, within the State of California," inasmuch as your committee have not the time to complete the investigation, being necessitated to attend to their other legislative duties.

All of which is respectfully submitted.

JAMES E. MURPHY,
Chairman.

TESTIMONY

TAKEN BY

The Land Monopoly Investigating Committee, 1874.

TESTIMONY.

SACRAMENTO, February 13th, 1874.

The committee met at ten o'clock A. M.

Present—A full committee.

TESTIMONY OF J. R. HARDENBERGH.

Mr. Murphy—The committee, Mr. Hardenbergh, is formed for the purpose of taking into consideration the subject of land monopolies and frauds.

Answer.—All I know of it is second-handed, giving you the parties to call upon who can give you the correct information. I can only give you an idea. My own knowledge is second-handed, but I can give you the names of those who can give you all the information you desire, and will let the people of this State know how land matters have been conducted heretofore.

Question.—Do you know anything of your own personal knowledge in regard to any frauds in land?

A.—No, sir; only an attempt to bribe me, which I told the other committee.

[Mr. Hardenbergh was here sworn.]

Mr. Murphy—Please make a statement of any facts you know in connection with the case.

A.—Shortly after I received my appointment as Surveyor General—

Q.—Are you United States Surveyor now?

A.—I was until about a month ago, and these very men had me turned out, or I resigned. I saw the Department would not sustain me, and I resigned. I have a book which will give you some idea of these things, in a great measure, and I will leave this book with you, gentlemen. It gives you data and figures here, and the affidavit will prove all the facts. That is all that is necessary for me to state, and you will see it is sworn to here. Wm. S. Chapman is a great land operator in the State with Sioux scrip, Chippewa scrip, on agricultural lands. He came here about six years ago, from the State of Minnesota. He has one of the Land Offices in his interest directly, which you can prove if you can get the witnesses before you.

Mr. Meyers—Can you give us an idea, in what way?

A.—Yes, sir; I will give you an idea. He arrived, as I am informed—

it is from hearsay, though—in Nevada State, first, and located Sioux scrip there; but it was so limited there that he left there and came to California, where his operations could be more extensive. You will find that affidavit here of a man who was once his confidential clerk. I can only give you a partial statement out of my memory. But he has a book that thick [showing], which if produced would show you the operations and *modus operandi* by which he got all this land. At one time he sent the Register of the Land Office at Stockton off. He went to the States on leave of absence, and he appointed one of his old tools—a man by the name of Iles (?)—whose affidavit you will find here—for the express purpose of running it in his interest. He actually made it and run it in his interest, and he went and marked his name on all the plats, W. C. W. or W. A. C.—that is, William A. Chapman.

Mr. Murphy—Marked it on the plats?

A.—On every plat that is made there. After the land is surveyed plats are made in the United States Surveyor General's office. One is sent on to Washington and the original kept in the office, and the other is sent to the Register of the district in which the land lies, and the settler then has ninety days after that plat is filed in which time he has the right to enter his land. The land in the San Joaquin Valley had not been signed up, and he put his name on each plat. This affidavit will show you W. A. C., and it is filed for this man, with a whole lot of blank filings, so that when a man called into the office to enter his land he would see W. A. C. on it, and he would inquire and want to know where that filing was; and he would fill up that filing and hand it to him—township ten south, or north—and that would preclude the settler from taking it, you see.

Q.—You know that from your own knowledge?

A.—No, sir; I say I don't; but you can get parties to testify to that; here is an affidavit in this book.

Mr. Higbie—Where is it?

A.—Vilas; he is in San Francisco; R. A. Vilas. I will leave this book with you.

Mr. Murphy—How do you spell the last name?

A.—V-i-l-a-s—in San Francisco.

Q.—Do you know where he stops? Where his place is?

A.—He was a clerk at Bridge's Stable, on Sutter street, I think, or Post—Bush street; B-r-i-d-g-e's Stable. Another witness you want is Daniel Allee. He was formerly a bookkeeper with Chapman.

Q.—Where is he now?

A.—He is in the city. The only way to get him is to get him by a peremptory summons, and not let him know you want him.

Q.—Do you know where his place of business is?

A.—No, sir; but if the Sergeant-at-Arms calls on me at the Grand Hotel I will find out from other parties, so you can find him.

Q.—Where is this man, his clerk?

A.—He was a confidential clerk with Chapman, and has made an abstract of all his titles and proceedings. He has an abstract of all the Sioux scrip that was forged; he can tell you all about it; knows all about it, and can tell you all about it. Another man is A. W. McPherson; I tried to get McPherson's testimony in the case when I got mine; he is a young man of the firm of A. W. McPherson & Weatherbee; Hall & McAllister, his attorneys, know all about the transaction.

Q.—It would not be much good to get an attorney; you could not make him divulge.

A.—Well, McPherson is, part of the time, up to his sawmill, in Mendocino County, and part of the time in San Francisco. He was very willing to testify in my case, but McAllister told him that without he had a regular subpoena he ought not to appear, because he would be compounding a felony with Chapman. Chapman gave him a hundred dollars, hush money. He said he was willing to testify, but McAllister advised him he would compound a felony, unless brought before the Court, and so he ought not to do it.

Q.—Where is his place of business, you say?

A.—It is on the wharf on Steuart street; McPherson & Weatherbee, large lumber dealers.

Mr. Klotz—Weatherbee?

A.—Yes, sir; the firm is McPherson & Weatherbee, lumber dealers, on Steuart street; and you can prove by a lawyer by the name of Putnam; he will give his testimony willingly, I have no doubt.

Mr. Murphy—Was he a Custom House officer, or not?

A.—No; he is a lawyer—a real estate lawyer—in San Francisco; I have his name here; that gentleman's name [referring to book] is Wm. E. Bridges, where you will find Vilas, and the other is S. M. Putnam. He went down to Stockton to take up about twenty thousand acres for a party in San Francisco; and there they told him that it was all filed upon, and showed him the plats, marked that Chapman had taken all the land. He denied it, and, I think, he tendered the money; he wanted to tender them the money, and they refused it, and he left; and they followed him down the stairs and told him there had been some mistake, and he could take the land. He can prove the fact that Chapman took all that valley, all but one or two tracts.

Q.—Which valley is that?

A.—The San Joaquin. Colonel Barnes will tell you of that, if he will. I don't know exactly all he knows about it, but Chapman was identified with the Land Office. There were some parties in the Land Office who were manipulating land matters for him; he gave them his note for ten thousand dollars for certain transactions, and they sent it out to Barnes to collect, Chapman repudiated it, and Barnes didn't dare to bring suit. He is here now, and I think he can give you some insight into those matters. He is here now; he told me a few days ago if I would call on him, he would give me a perfect history of the matter; I think he is here now in the building. He will leave this afternoon; whether he will throw himself on his rights as an attorney, I don't know. I didn't mention the fact of being before the committee.

Mr. Murphy—You have been Surveyor General of the State of California?

A.—United States Surveyor General up to the date of January last.

Q.—Where is your office located—in San Francisco?

A.—Yes, sir; in San Francisco; these things were brought under my office.

Q.—As Surveyor General, had you not some opportunity of knowing something about those frauds, if any were committed?

A.—No, sir; they were committed prior to my taking my position.

Q.—Do the records show anything?

A.—The records in my office? No, sir; I don't know whether the records in the San Joaquin office would show it or not, but you can prove the fact of their manipulating the lands and filing false powers of attorneys of Indians and Sioux scrip from the Dakotah tribe and upper waters of the Mississippi, near Lake Pepin, where they are issued; I

have got some copies of fraudulent powers of attorney. I can refer to them now, if you will allow me, and would like to hear one read. I found this man Allee, or some of my friends did, and he had a lawsuit with Chapman, which is decided. He didn't want to give me much information, and I had to worm it out of him. His affidavit is here, I will read it. When the bill was passed the Government attempted to guard it in every way. The heads of families were to receive a certain number of acres, according to the number of children. The male portion had a limit, I think, about one hundred and twenty, and the females had eighty. The Government made it so that nobody could enter it without their proper power of attorney. Here is a blank power of attorney that we fill up, you see: Know all men by these presents, that I, —, of — County, State of —, have made, constituted, and appointed, and by these presents do make, constitute, and appoint —, of — County, — true and lawful attorney for — and in — name, place, and stead, to enter upon and to take possession of all land which may acquire or become seized of by reason of that portion of my Sioux, Half-breed, Lake Pepin Reserve scrip, to wit: Number so, letter so, for so and so, so many acres. The Government sent a Commissioner out there to get all the Indians together. [Reads "Exhibit A."]

Mr. Murphy—Have you any idea how they got possession of those powers of attorney?

A.—Well, they made them; they forged them; put fictitious names to them and (?) genuine. He had men in Minnesota who knew the Indians names, and filled them in. I will give you the history of one Indian here. The following is a certified copy. The following certified copies of affidavits (Exhibits "A" and "B") speak for themselves. Many more could be readily given, but space will not allow. I have said that land was conveyed after the death of the half-breed. I will cite the case of Henry Millor. [Reads "Exhibit A"]. I will simply state that the said Henry Millor was tried, convicted, and executed, and was hung at Mendota, State of Minnesota, on the twenty-sixth day of December, eighteen hundred and sixty-two, by special order of Abraham Lincoln, then President of the United States, for murder.

Q.—What was the date of the power of attorney?

A.—In eighteen hundred and sixty-seven or eighteen hundred and sixty-eight. If you recollect, there were depredations committed about the time the civil war broke out, along the frontier, by Indians, and some seven or eight of them were hung by order of the President. He was among that number; and three or four years after that his power of attorney comes out.

Q.—That is a matter of record?

A.—That is a matter of record. His being hung would be matter of record in Minnesota, but if it would be a matter of record here I don't know. There are several of these cases like this.

Mr. Meyers—Have you any idea of the extent of these operations of Mr. Chapman; how much scope it embraces?

A.—Well, I could not speak, sir, with any great accuracy, but I should think, perhaps, a million of acres, more or less.

Mr. Higbie—Did any of these transactions take place after you went into office?

A.—No, sir; prior to that. The nineteenth day of February, eighteen hundred and seventy-one, I was in the office three years, lacking a month. Chapman has turned out every Surveyor General for years.

Every time they opposed his will he has turned them out, or had them removed for some technicality.

Mr. Murphy—What is the secret of his opposition to you in the matter?

A.—In the first place he never had dealt in swamp land prior to my assuming the duties of the office. He told me, one time I met him, that he had bought or purchased a large tract of swamp land in Sierra Valley. I remarked to him that Congress had taken some action in regard to that; what it was I didn't recollect. There was some trouble about it, for the agent had required settlers to come to the United States office to have their investigations, and the expense was so great that many of them could not bear it—two or three hundred of them—and the Department made the order that the Surveyor General must go there on the ground, or to the nearest accessible point, and examine into the matter. I was called upon by individuals here—by Mr. David Mahoney. I gave notice when I first started in—I think it was the seventeenth of May, eighteen hundred and seventy-one, if my memory serves me right, about that time—the fifteenth or twentieth, along there—Mahoney called on me one day and said Chapman was anxious, very anxious, about that Sierra Valley. It embraced some thirty or forty thousand acres in the Sierra Valley. It was like turning one's hand over. It could be decided either way. There would not be much fault found about it, because it was a very closely contested fight. He said it was worth five hundred thousand dollars, perhaps, and he was willing to give me one fifth of it if I would decide it as he wished.

Mr. Higbie—Chapman offered you that?

A.—Mahoney offered me that.

Mr. Murphy—Where does he live?

A.—In San Francisco.

Q.—Davis, or David?

A.—David Mahoney. David and I have been friends for many years.

Q.—Did he make this offer by the authorization of Chapman?

A.—Here is his affidavit. I addressed him a note after they preferred charges against me. I have his answer here. I will read it. It will bear out what I say in regard to that matter—all about it. It was written from White Sulphur Springs, and reads as follows: "White Sulphur Springs. J. R. Hardenbergh, Surveyor General, San Francisco—My dear sir: I acknowledge the receipt of your letter." [Reads letter.] "You appreciated his efforts in Washington." Chapman was in Washington when I was there, and assisted in my appointment. [Reads.] "He would place on interest the one sixth or one seventh." Mahoney is mistaken there. He offered me one fifth; I recollect that distinctly. [Reads.] "In regard to my conversation with Charles Washburne." Chapman employed him to go to Washington, and gave him twenty-five thousand dollars to get my decision reversed by the Department. Now, Chapman denies that conversation with Mahoney, and here is his denial. [Reads.] Now here is Putnam's; the affidavit of S. M. Putnam, being duly sworn, deposes and says. [Reads.] And here of William Bridges. He swears that this man is a clerk of his, and that he believes him to be truthful and honest. [Reads.] "He is now in my employ, in the Saint Lawrence Stable." And here is the affidavit of Dr. Stillman. [Reads.] "Dear sir, you ask me if I know R. A. Vilas," etc. [Reads.] Now here is the letter to Mahoney, July nineteenth, eighteen hundred and seventy-three—Hon. David Mahoney. [Reads.] Here is Mahoney's statement about that letter: "David Ma-

honey, being duly sworn, deposes and says: 'I have read the contents of my letter to General Hardenbergh,' etc. [Reads.] There is Mahoney's affidavit, in which he reiterates it.

Mr. Higbie—Do you know of any one by whom the testimony of Mahoney could be verified, as the matter is denied by Chapman? Do you know how it could be substantiated?

A.—I don't know of any one, because there was only two of them together talking. I never heard of any other party. But Mahoney is a man of standing and integrity. I say he had no object in view—no interest in it.

Mr. Murphy—And he is a man of wealth?

A.—Yes, sir. Then there was a man by the name of Kimball, who had some swamp land. The United States made a survey, and he claimed it as swamp land. There were some settlers upon it; it is at Red Bluff. There were some settlers upon it, and they sent me a petition that it was not swamp land, and I refused to sign it. It hung about a year after I refused to sign it; Chapman's clerk came up one day, and said Chapman wanted to see me. I went down stairs to his office and met him, and he went into an adjoining room and opened a safe, and came in with a roll of twenties done up in cotton cloth—I should think about six or seven hundred dollars in the roll—saying, as he handed the money towards me, "Here is some money for you." The land before then had been surveyed, and the notes had been sent to the Surveyor General's office, and it had been platted, but I had not signed the segregation of it. I said: "Money? What for?" He said: "Kimball has sent it; you have had a good deal of trouble in this land matter, and here is some money for you." I said: "You can send it back, with my respects; I won't have anything to do with it."

Q.—When did this occur?

A.—Well, then I came right up stairs, and met my chief clerk and keeper of the archives, and told him what Chapman had done. As near as my memory serves me, that must have been in either August, September, or October, of eighteen hundred and seventy-one; I could not tell positively as to the date.

Q.—In the City and County of San Francisco?

A.—Yes, sir; certainly. Then I was called to Washington on business in that Spring, and during my absence, (?) who acted as Surveyor General during my absence sent one of the old surveyors of the office up, to examine the matter and report fully upon it. He came back, and made the report that it was actually swamp land, under the law—that he considered it was actually swamp land—and under that report I signed it. Kimball came to the office prior to my signing it. I didn't intend to sign it until I saw him, and when I met him I said: "Kimball, whatever possessed you in the world to send me five hundred dollars down to bribe me?" Well, he said he had some business with Chapman, and he had told Chapman about this case, and he said: "I will take care of that; you send me down five hundred dollars." That was the first time I knew the amount; I think it was five or six hundred dollars.

Q.—That was Kimball's statement to you?

A.—Kimball's statement to me, in the presence of my chief clerk.

Q.—What is your chief clerk's name?

A.—John A. Robinson; his affidavit is in that book; he is my chief clerk now.

Mr. Klotz—If anybody had settled on this swamp land with the

intention of buying it as Government land, not knowing it was swamp land, would Kimball have the right to take it away?

A.—They would have to give it up, under that Act. I have got a pile of affidavits that high about this.

Mr. Murphy—What is this man's name?

A.—G. G. Kimball. He is a nephew of General Redington.

Mr. Klotz—The land is swamp land, and he would have had ours too if we had not been liberal and took it off. Some of the land is mine, and I paid nine hundred dollars for it.

A.—And I refused to sign his plat for a long while, and I told him if he would pay the expense to send a surveyor down to survey it, and produce the affidavits, if it was all right I would pass it, and if it was not I would not, and he produced an affidavit, and sent Mr. McKee, who was the surveyor who surveyed it, and he convinced me that it was swamp land, and I passed it.

Mr. Klotz—That is correct; that is Four River Valley?

A.—Yes; I passed it. I should not have passed Kimball's if it had not been for the report of the surveyor. Jesse D. Carr tried to bribe me once, indirectly. I can prove that by my clerk.

Q.—Who is Mr. Carr?

A.—He lives in the County of San Benito, or Old Monterey.

Mr. Higbie—He used to live at Watsonville.

A.—I have got an affidavit of his here, about the rancho of San Gabriel, where he swore that he held possession of it under a fraudulent claim.

Mr. Klotz—Kimball got that land away from parties who had settled on it, not knowing it was swamp land.

A.—Under the Kansas Act, Kimball was entitled to it if it was swamp land.

Q.—There was the mistake in the law?

A.—Yes, sir. Carr settled on the lands that he had sworn himself was a fraudulent claim.

Mr. Higbie—His old ranch?

A.—Yes, sir; one of the Limantour claims. I will give you his own affidavit. He made a contract with Isaac —, of San Diego, and he got the ranch through all the stages of law; but Carr said he didn't act in good faith, and wouldn't give it to him; and in the trial, his attorneys produced this affidavit—while the trial was going on—just as it was called. I will read you the affidavit, to give you an insight into some of those matters. [Reads.] Signed, Patterson, Wallace & Stowe, Attorneys for the Defendant.

Mr. Klotz—Can you tell how much land Kimball has got up there in Tehama County?

A.—No, sir; I can't tell from memory—three or four thousand acres.

Q.—Do you know a man by the name of Murdock, who got land in Shasta County?

A.—Not while I was there.

Q.—He has got it lately.

A.—I cannot tell from memory. I can tell by looking in the books. There are so many such transactions taking place all the time, you can't remember them. Carr has got that San Gabriel ranch yet, but the title is fraudulent now.

Mr. Higbie—Ought that not to be reconsidered?

A.—Yes, sir; the United States ought to bring suit.

Q.—And if it were reopened, they could show it was fraudulent?

A.—Why, he has sworn to it himself here. This was one of those Limantour claims. There is no trouble in proving it fraudulent; not particularly. It was rejected by the Land Commission confirmed by the lower Courts in California, when there were no circles down your way—when Judge Ord was United States District Attorney. Carr tried to bribe me once indirectly upon another matter.

Mr. Murphy—Relating to the public lands?

A.—Yes, sir; Carr called upon me and wanted me to receive some money to have some lands surveyed where the Modoc party is, along Red Lake and Klamath Lake, and I partially consented to it, not knowing the facts of the case. Governor Flanders, ex-Governor of Washington Territory, was stumping the State for Booth at that time. He was sent by the State Central Committee into Siskiyou County. I met him casually in San Francisco, one morning, and he said: I was riding in the stage from Yreka to Shasta, I think he said, or Red Bluff, and rode over some land that they claim as swamp land. Judge Rosborough was in the stage, and said he had a large interest in it, together with Jesse Carr; and I says, I don't think this looks much like swamp land. That is all right, said the Judge. Carr says he can manage the United States Surveyor General of California, and he will get a man appointed to survey it. He wanted me to appoint a man by the name of Applegate—a very good man, by the by. I said, I will take your money, but I can't appoint your man—but I give you to understand that I won't appoint your man Applegate. He went away, and on my return a few days after, Christy and Wise came in and offered to deposit a portion of the money requisite; and I said, I will take this money, but I won't oblige you to pay it, for I shall certainly not appoint the man that Carr wants to survey it, and he might lose his money. And they left with the money. One day Carr called at my office when I was out, and when I came in after lunch, my clerk says, "Carr has been here." Senator Cole, also, asked me to appoint Applegate; and I said, "Senator, I would resign before I would appoint that man to survey that land; I would resign before I would do it." When I came in after lunch, my clerk said, "Carr has been here and left a message for you, but he didn't like to deliver it." "Out with it," I said. "Well," he says, "Carr is very anxious to have that land surveyed, and he said there is five fifths in it, and he has kept one for you, worth about fifty thousand dollars. If you will appoint Applegate to survey it, one fifth is yours." I says, "You can tell him to go to hell; I won't have nothing to do with him, and he need not attempt to steal the land. I don't intend to steal it myself, and I intend to see that he don't do it." Shortly after that, some surveyors had been surveying in the northern portion of the State, and they said they had struck some surveyors surveying up there—"Did you send anybody up?" I said, "No." They said they were segregating all the land. Well, the next year a portion was returned and segregated by some person, and Carr got that portion, and that left a portion of thirteen or fourteen thousand acres to be decided. He has filed a claim here in the Surveyor General's office to give the United States department notice to have the matter examined. It will be examined on the third of March, I think. That day was fixed to take the testimony in the case.

Mr. Klotz—Where is that land?

A.—It is along Rhett Lake, and White Lake, and Klamath Lake—along where the war was. I went to examine it at Redding—the Town of Redding. That is the nearest point.

Mr. Higbie—What was his object in giving you that check for the survey, thirty-five hundred dollars.

A.—He was willing to pay for the survey if it could be all segregated as swamp land. He would have the prior right to it after the survey was made, and the United States Surveyor General signed the plat. It is then irrevocable. The Department at Washington cannot alter it then. It becomes swamp land, and whoever gets possession of it first takes it. That is the necessity of having a Surveyor General that they cannot control, because he can make anything swamp land. He can make the mountains swamp land.

Mr. Higbie—He can survey it and declare it so?

A.—Yes, sir.

Mr. Meyers—The Department at Washington don't usually go behind the report?

A.—They cannot go behind it according to law.

Mr. Klotz—For instance, if the surveyor, Colonel McGee, made a survey in the Fall of the year—and some years are different from others, some years are drier than others—and he should go over that land and find it dry?

A.—It is his duty to inquire into it, and find how it is from one year to another. When he goes into the field and has any doubts about it he must take evidence as soon as he comes, and if there is any doubt about it he returns it as dry land. If there is not, he returns it as swamp land.

Mr. Klotz—But if he don't do that?

A.—Then he violates his oath.

Mr. Murphy—They appoint a contract (?) surveyor in every county instead, now?

A.—No; those are mineral surveyors. Every deputy surveyor has a contract, and in his contract he has to mark the word "Deputy." It is only for that specific object.

Mr. Klotz—Well, in case he should return it as swamp land and not make any examination?

A.—That has been done since eighteen hundred and sixty-six, and he files it with the County Surveyor. The county surveys it. He has a certain percentage, and he notifies the State Surveyor General that the State claims that land, and under the Conness Act of eighteen hundred and sixty-six, the Surveyor General is bound to go on the land, or as near to it as he can get. The Conness Act gives all land to the State that was surveyed and claimed by the State.

Q.—Where the surveyor returns it as high land or not?

A.—Where the State authority returns it as swamp land.

Q.—What I want to get at, substantially, is: You send a surveyor to survey a tract of land; in October or November he finds it dry, and does not examine any witnesses?

A.—Then he violates his oath. He is instructed to be very particular, and have witnesses, and get honest men, and give it a careful investigation. If he finds there is the least doubt about it, then he will return it as high land, and then it will be approved by—if he returns it as swamp land, it is beyond anybody's control when signed.

Q.—The deputy acts as the United States Surveyor General?

A.—The Surveyor General can look over his acts, and look back and refuse to sign his acts.

Q.—In case he returns the land as high land by filing it at that time of year, not going and asking anybody, what remedy has the man in such a case as that?

A.—He has the remedy to apply to have it surveyed, and send it here to the Surveyor General's office, and he gets the United States Surveyor General to take testimony that the State claims the land that the United States has surveyed and returned as high land.

Q.—In a case of that shape, that has been surveyed by the United States Surveyor General, and returned as high land, that in case of an appeal to him, he finds it is generally covered with water?

A.—The Swamp Land Act is only four lines. That has never been settled; that any land that raises a crop of grass—even tame grass—is swamp land if it is wet. They claim under that, often, bodies of land that will grow any kind of crop, and that is not swamp land. That is their definition of it, even if it grows grasses. There is many of these lands in the market, that in the Spring you cannot get a crop of grain from; no crop of grain can be grown on it; it raises tame grass, if you sow it; but the wild grass is more indigenous than the tame grass—it raises better crops; and therefore they raise grass in preference, and during the latter part of the season they irrigate it and raise crops. That is the great contest in the Sierra Valley; that is the case with the Sierra Valley.

Q.—What head would that come under?

A.—Swamp land. These parties have bought the land and paid for it; but where they mow their hay, sometimes they can't get there to mow it until September, and, probably, there will be two or three inches of water there then. This grass of the mountains will grow in the water.

Q.—That will stand in the water, and according to the Act it will be swamp land?

A.—Yes, sir; according to the rulings of the Department; but land that water stands on and runs off of—

Mr. Meyers—Mr. Hardenbergh, have you given us all the names that you think will be material in investigating these fraudulent transactions?

A.—Well, so far as I recollect, I have.

Mr. Murphy—Do you think Kimball will be a material witness?

A.—No, sir.

Q.—Except to corroborate your statements?

A.—Whether he would criminate himself or not is the question.

Q.—Under the provisions of the Code, we can compel any witness to answer any questions that may be put to him, but the evidence cannot be used against him.

A.—Mr. Robinson will appear, because he was present—Mr. John A. Robinson.

Q.—Then it is better to get Robinson?

A.—Yes, sir; he was present. His affidavit is in here in this book. Mr. Chapman sets up that the money which was tendered to me to pay for the survey was two thousand dollars.

Mr. Murphy—This man Carr is Jesse D. Carr?

A.—Yes, sir. He is in Washington.

Q.—Do you think Vilas' evidence will be material?

A.—Yes, sir. He can prove that he was a clerk in the Land Office, and was put there by Chapman, and that he allowed Chapman to put W. A. C. on all land plats in the office.

Q.—What was the object?

A.—That was, if anybody desired to enter the land, they would be informed that W. A. Chapman had it.

Q.—Who is this Daniel Allee?

A.—He was a private clerk for Chapman.

Q.—Is he, at the present time?

A.—No, sir; Chapman discharged him. He stole these papers out of Chapman's safe. He has powers of attorney that I think Chapman has forged; and he will prove to you that Chapman has a book which he calls the "Corruption Fund," where he paid money to get things through; who to I don't know.

Q.—A. W. McPherson; do you think he would be material?

A.—Yes, sir. McPherson can give his testimony to you, but he wouldn't give it to me, because McAllister stated he would be compounding a felony, and would be liable, unless subpœnaed; so I know very little about it.

Q.—Those are the only witnesses you know of?

A.—Yes, sir; at present.

Mr. Meyers—Do you think transactions extended to other Land Offices except Stockton?

A.—Probably they did; but I have no evidence of it. I wouldn't be surprised if he ran the Visalia Land Office, indirectly. I can only judge from the fact of his having a great deal of land down there. All I blame the Department for is, because they didn't stick up to their offices. There was a man named Brown, when I came into office, surveyed Visalia Valley. I was over to Honey Lake Valley and Susanville, and there was some settlers came over from Indian Valley, and they said they had been swindled; they had settled in the valley, and been put off by men who claimed it all as swamp land. They said they had been outraged by the surveyor. Judge Belcher, who was Judge of the Supreme Court, was trying a case before me, in behalf of the settlers. I said, Judge, we will get a buggy and go over and visit the land. We had to go to Cantalonia, and we saw several of the farmers in the valley. If my memory serves me right, it was in October, or bordering on November, that we went there. I spent some three months. We rode around that valley, and I should judge there was perhaps thirty or forty thousand acres that was actually swampy; that was near the center, where the stream runs through—a sort of a basin. The settlers that were there I didn't see, but I saw a storekeeper there, and the hotel keeper, and they said that all the land was owned by three or four men, and that it was not swamp land, and that it was an outrage. They had driven everybody off, and they could not go inside of it. After some little inquiry into the matter, they stated that the law was against them. I wrote to Washington, stating the facts, and that I had been there on the ground, and I was convinced that it was not swamp lands; and although the plat had been signed by my predecessor, yet he had been imposed upon; and I could say that the other plats were not made out, and that I thought the parties ought to take some action in the matter. I came home after I had written that letter. Mr. Brown came in and wanted a survey, and I said to him: Mr. Brown, I don't know that I can give you a survey—there has been some fault found with you with regard to some of your former surveys; without you can explain that satisfactorily, I wouldn't feel at liberty to give you a survey. They say you went to Sierra Valley and made a survey, and then altered it; and in talking to him, I said: I will take your affidavit upon that point. I advised him a little, and got it out, and he gave me this affidavit:

"STATE OF CALIFORNIA, }
City and County of San Francisco. }

"B. G. Brown, being duly sworn, deposes and says:" [Reads.] I don't find any fault with my predecessor because they imposed on him. I think he was in this particular an honest man. He was a little old foggyish, and was not up to the tricks of those modern times—being an old man. I don't think he imagined, or did anything intentionally. I don't want to convey that idea to anybody. [Reads.] Mitchell, at that time a clerk in the Surveyor's office, had filed on all the land, and these men had purchased his rights; I think at twenty cents an acre, they gave him for his land; by the by it is one of the most valuable sections of land in the State; and the frosts around there are very early or late; and they can raise all the cereals, wheat, oats and vegetables—it is remarkable for that. Lying up as high as it does, it raises all these crops; and in my humble opinion there is very little swamp land there. There was thirty or forty thousand acres that these men gobbled up. [Reads.] Now I sent that affidavit on to Washington, and the only thing that I find fault with the Government for is that they didn't stand by me when I wanted to expose these frauds. He writes me a long letter. [Reads.] He says in that, that he could not revise it.

Mr. Higbie—And yet the fraud was confirmed

A.—Yes, sir; and the papers were not sent up; the whole thing had not been sent up to Susanville. I held it until I got his reply, and he, instead of sustaining me, turned around and rapped me over the knuckles.

Mr. Meyers—Has that matter not lately been refused?

A.—Yes, sir—this in Indian Valley, and in Sierra Valley.

Mr. Murphy—Where is Indian Valley situated?

A.—Indian Valley lies about forty miles northwest from Truckee, as near as my memory serves me.

Q.—In what county?

A.—It is in the County of Colusa. It is from twenty-five to thirty miles from Quincy, to the southeast. It is a very fine valley, very productive. Taylorville is situated in it

Q.—I understand you that this valley is entered as swamp and overflowed land?

A.—Yes, sir; and is so listed to the State.

Mr. Higbie—And it is not swamp land?

A.—No, sir; not over one hundred and fifty acres of it, I don't think.

Q.—Have you any means of knowing how many acres?

A.—No, sir; from thirty to forty thousand acres.

Q.—You don't think there is over one hundred acres of swamp land?

A.—No, sir; and I wouldn't like to swear to that. No, sir; you can tell it by the willows.

Q.—There was not a hundred, hardly?

A.—No, sir, in my humble opinion. It was in the Fall of the year, and I inquired of the hotel keeper and storekeeper there, and they said it was very productive; you can see fruit trees on the ranches.

Q.—Who owns this land there, Chapman?

A.—No; Chapman has nothing to do with it. Job Taylor—one or two men near Taylorville.

Q.—This Indian Valley is on the road from Oroville to Chico, is it not? What county is it in?

A.—Plumas County. Four or five men own it all; it's a perfect fraud, you know, from beginning to end; a matter of false returns.

Mr. Higbie—By the surveyor?

A.—By the surveyor, entirely.

Q.—Who was the surveyor of that piece?

A.—D. D. Brown. I never employed him afterwards.

Mr. Chandler—Is this the same Chapman that owned a tract of land in Sutter County?

A.—This is William S.

Mr. Higbie—Where is that Brown, now?

A.—He is around San Francisco; I don't think he has been doing anything. All the surveyors I wouldn't appoint went after me hot-foot.

Q.—Where does Chapman live?

A.—In San Francisco.

Q.—Is Friedlander a large speculator?

A.—Yes, sir. I have heard that he and Chapman were together; he was in it, and Friedlander advanced, before he stopped, three or four hundred thousand dollars to Chapman. Friedlander stated to me that all the land he ever got he paid for; he advanced that money to Chapman.

Q.—They generally worked together?

A.—I imagined so. I have no evidence of that.

Q.—Is not the idea you have that Chapman would get it by scrip, and then sell it to Friedlander?

A.—Yes, sir. Chapman had a contract then with the Bank of California, and got all the scrip he wanted at sixty cents on the dollar; and as he wanted it, he would pay for it and take it out. I know he had, because it's registered in the Land Office. There was a contest with a man by the name of Hauburg (?) trying a case in regard to land title before the Receiver and Register. They had been to work a day or two, and one day, as they were trying it, Chapman's attorney came in and laid a patent down on the table, and said, here is a patent for this land.

Mr. Chandler—There was a good deal of land patented before this "Conness Act." Now that it has been surveyed and declared swamp land and listed over to the State, what recourse have the settlers?

A.—Well, they can get it from the State, of course.

Mr. Murphy—By buying the land?

A.—Yes, sir. If they patent the land I don't know what rights they have. The Swamp Act was passed the twenty-eighth of December in ——. It was extended over this State, I think, in eighteen hundred and sixty. In eighteen hundred and sixty-one this State of California obtained a Swamp Land Commission, and ——— and ——— were members of it. They met, the County Surveyor certified as to the character of the land all over the State, and they applied for it; but nothing was ever done, and there was a good deal of disturbance. Houghton went to Washington in eighteen hundred and sixty-six. On July thirteenth was passed the Act to quiet titles in California. It was the most corrupt Act ever passed. The provisions of that Act said: that all lands taken by the State of California as swamp lands, that the State should make out three maps of, and the Governor should transmit those maps to the proper authorities—to the United States Surveyor General. He should copy those plats, and file them at Washington. Well, they sent those maps on, and they laid there from year to year, untouched, in a box. When I assumed the duties of the office, they had been making an examination of the swamp lands across this river—

Rose, Blanding & Co. After that they adjourned to meet here, after I got in. They adjourned that case, because another case was called up. This is right across the American River, some distance up between here and Marysville. We started to examine it. After we had been at it three or four days, I found that that land had been segregated by the State prior to eighteen hundred and sixty-six, and I thought the Act of eighteen hundred and sixty-six covered it. One of the parties was here, and he objected to it. Judge Belcher's brother was attorney for the railroad, and he objected to it. They made up an agreed case, and submitted it here. After examining the matter, which the law has confirmed, I found there were no maps in my office. I saw no map there; but on looking over the old musty records in one of the Land Office rooms in the basement of the office, the Commissioner found this set of maps, made by the State prior to eighteen hundred and sixty-six, and it was sent on, and the Governor confirmed my opinion, and I ordered him to list it, and I suppose I listed over a million of acres; so anybody having an equitable right can go and get it, because the land has been filed in this office, and in the United States office. Some went outside of that line, and tried to extend it farther. I again wrote to the Department at Washington, and they wrote back that they could not go beyond that. Judge Bradford, of Sonoma County, had some land in San Joaquin County. He wanted me to examine it; it was surveyed in eighteen hundred and fifty-four—I think it was—or, eighteen hundred and fifty-six. It is in Kern County, now. "Here is the county," I said, "and your land is outside of the segregation line," and I refused him. He appealed to Washington, and they reversed their opinion again, and allowed an examination to take place.

Mr. Klotz—Now, I understand you, if a surveyor surveys land in the Fall of a year, and finds it dry, and not getting any information about it, returns it as dry land, and a party buys it from the Government, and actually that land is swamped three years out of five, and it would be as late as August covered with water, what can you do?

A.—Then you must have it resurveyed, and apply for it to the State, under the Act of eighteen hundred and sixty-six.

Q.—The Act of the first surveyor wouldn't amount to anything, and it would be good until you proved the reverse?

A.—John F. Stewart, the lawyer, can tell you how they were caught while investigating that case in the Land Office.

Mr. Chandler—Did you know about those swamp lands in Sutter County?

A.—I know very little about them, sir.

Q.—Do you know how they were entered up?

A.—Well, only from hearsay. I know nothing of my own knowledge.

Q.—Do you know what witness would be material in this Indian Valley investigation, or what witnesses we could bring in to prove the material facts in regard to that?

A.—Well, there is a storekeeper in Indian Valley, and several men. I don't know their names.

Q.—And Brown?

A.—Yes, sir. Here is his affidavit.

Q.—Where does he live?

A.—In San Francisco.

Q.—Do you know what place?

A.—No, sir; but I can have him pointed out to anybody you send. You send for Allee, and make him bring all his papers. He will give

the same excuse that McNamara did, that he has no money to come with. He is very smart, as Chapman has found out.

Q.—Has he got the books and papers in his possession?

A.—Yes, sir; he has all the forged affidavits. If you read that carefully, you will find all those things out.

At twelve M., the committee adjourned, to meet in San Francisco the next day, Saturday.

SECOND DAY'S PROCEEDINGS.

SAN FRANCISCO, February —, 1874.

At eleven o'clock and ten minutes A. M. the committee met—present, a full committee.

On motion of Mr. Meyers, John B. Harrington was appointed as Sergeant-at-Arms to transact the business of this committee, as to subpoenaing witnesses, etc.

Subpœnas were issued for David Mahoney, John A. Robinson, R. A. Vilas, Captain Rollins, James F. Stewart, A. W. McPherson, and Daniel Allee.

At twelve o'clock and twenty minutes P. M., the committee adjourned until one o'clock.

AFTERNOON SESSION.

TESTIMONY OF JOHN A. ROBINSON.

JOHN A. ROBINSON, called, sworn, and examined:

Mr. Murphy—Mr. Robinson, state your name, age, and residence.

Answer—J. A. Robinson, thirty-four years of age, residence San Francisco.

Question—What business are you employed in at the present time?

A.—Chief Clerk in the office of the United States Surveyor General.

Q.—Do you know anything, of your own knowledge, in reference to any frauds being perpetrated in entering upon or obtaining possession of State or United States land in this State? If you do, make a statement of any facts that have come to your knowledge without being subjected to any particular questions or inquiry. If you know anything pertaining to this matter please make a statement?

A.—I know as to the manner of obtaining land.

Q.—Any particular instances, to your knowledge, where there was any frauds. You say you know in regard to the manner of obtaining—

A.—I was going to remark that I knew as to the manner of obtaining certificates—surveys as it has been in the office of the United States Surveyor General.

Q.—Was your evidence taken in the answer of J. R. Hardenbergh, United States Surveyor General, of the State of California, to the Commissioner of the General Land Office?

A.—Yes sir; the one printed there.

Q.—Will you state to this committee, as far as possible, so far as your recollection serves you, as to the substance of your affidavit on that occasion?

A.—Well, there was several steps embodied in the affidavit; a portion of them pertaining simply to the manner of conducting the business of the Surveyor General's office.

Q.—We don't wish anything in regard to that; any other facts in regard to any particular instance of fraud or collusion between parties, at any time, is what we desire?

A.—Well, in that affidavit I made a statement of that matter as it occurred in the office, in which Mr. Carr was interested—it was Jesse D. Carr.

Q.—Will you point out here where that affidavit is [showing witness a book]?

A.—It is found on page one hundred and twenty-seven, one hundred and twenty-eight, one hundred and twenty-nine, and one hundred and thirty. This appears to have been somewhat mutilated.

Q.—Well, it appears from the affidavit that there was some charge made against Jesse D. Carr, was there not, in relation to making the survey in the vicinity of Rhett Lake?

A.—Yes, sir.

Q.—State what you know in connection with that matter.

A.—In the Summer of eighteen hundred and seventy-one, Mr. Carr applied for the survey of certain lands near Rhett Lake, in the northern portion of this State, and requested that one Jesse Applegate make the survey. Mr. Hardenbergh refused to appoint Mr. Applegate to make the survey.

Q.—What reason did he assign for refusing to appoint him; do you know?

A.—The reasons were, that he didn't believe that the land was swamp land.

Q.—Was not the reason assigned that Mr. Applegate was in the interest of the swamp land, or had some particular interest in that direction?

A.—Yes, sir.

Q.—That was an additional interest assigned?

A.—Yes, sir; he assigned reasons. He said he would make the survey, if they would make the deposit, but said he would select his own man.

Q.—Was any influence brought to bear to induce Mr. Hardenbergh to appoint Mr. Applegate to that position?

A.—Yes, sir; several parties called and urged his appointment, and upon one occasion Mr. Carr called, and left a message with me to be delivered to Mr. Hardenbergh.

Q.—What was the purport of that message?

A.—He found Mr. Hardenbergh out, and told me to tell him that if he would appoint Mr. Applegate to make the survey he would give him a fifth interest in the land.

Q.—Mr. Carr told you—

A.—To tell Mr. Hardenbergh that.

Q.—If he appointed Mr. Applegate he would give him one fifth interest in the land?

Mr. Higbie—Mr. Carr would give him that?

A.—Yes, sir. When Mr. Hardenbergh came in I delivered the message the same as it had been given to me, and as requested by Mr. Carr, and

got his reply. I first hesitated about giving it. I told him it was rather delicate, and he said, "Out with it;" and he peremptorily refused to accept or to make the appointment of Mr. Applegate, and directed me to tell Mr. Carr. Mr. Carr called in the evening, or the next morning, and I delivered the message as I received it from Mr. Hardenbergh.

Q.—Do you know of any occasion on which Mr. Chapman attempted to bribe Mr. Hardenbergh by the offer of money for procuring the survey of lands or appointing any one as surveyor?

A.—Not to my knowledge.

Q.—Do you know anything incidental to it; any circumstances in connection with it?

A.—I don't know whether it would be admissible or not; but the evidence was given to me by Mr. Hardenbergh, at the time spoken of in the evidence here.

Q.—Well, we would like to hear that, inasmuch as Mr. Hardenbergh has testified to certain facts, and I suppose any corroborative evidence would be admissible, and we are not nearly as strict as in a Court of law.

A.—The statements made in that affidavit are true.

Q.—That Mr. Hardenbergh came into the office very much excited and said that Chapman had just tried to bribe him by offering him money. This was in eighteen hundred and seventy-one, and was with reference to William H. Carlton's survey. Mr. Hardenbergh said that Mr. Chapman had sent for him, and on going into Mr. Chapman's office he was offered a roll of twenty-dollar pieces, in amount, as he thought, of about seven hundred dollars; that he had replied to Chapman: "You have mistaken your man; I don't do that kind of business." He said Chapman had tried to get him to approve a survey, made by William H. Carlton, in which there was some swamp land claimed by G. G. Kimball, of Red Bluff. Are the facts, as I have stated them, and as they are stated in that affidavit, true and correct?

A.—Yes, sir.

Q.—In a few days Chapman met Hardenbergh on the street, and asked where Mrs. Hardenbergh was; was informed that she was with her father in Minnesota; Chapman said he would send her that money, referring to the money offered him to have the Carlton survey approved. General Hardenbergh came into the office and informed me what Chapman had said to him, and immediately sat down and wrote to Mr. Hardenbergh, directing her to return him the money should Chapman have sent it to her, as he intended. I heard this letter read, and saw it addressed to Mrs. Hardenbergh, in Minnesota. If he said that, is that true?

A.—Those facts are true.

Q.—Were you present in the United States Surveyor General's office in the early part of the year eighteen hundred and seventy-three—after this work had been approved and sent to Washington—when a conversation was had between General Hardenbergh and G. G. Kimball, of Red Bluff.

A.—Yes, sir.

Q.—Was that relative to Carlton's survey?

A.—It was.

Q.—As near as you recollect, what was the language that General Hardenbergh used to Mr. Kimball at that time?

A.—My recollection is that he asked him if he didn't know him better than to try to bribe him.

Q.—What did Mr. Kimball reply to that, as near as you can recollect; just in substance, of course?

A.—Just the substance of what is there. That is, that he was influenced to do it by Mr. Chapman, and thought that was the way they did the business.

Q.—Do you recollect the language Mr. Kimball said Chapman used to him in reference to that matter in writing to him—what amount of money that he said he could use?

A.—My recollection is, that he told him to send down five hundred or seven hundred dollars, and he would put it through for him.

Mr. Higbie—What?

A.—Put it through for him.

Mr. Murphy—Your language is, here, "to fix it for him." Do you know that Mr. Chapman did send this five hundred dollars to secure the approval of the Carlton segregation?

A.—Not to my knowledge, only as I state there.

Mr. Higbie—Was this the same piece of land which you are speaking of there, in which Applegate was sent to make the survey?

Mr. Murphy—No; this is another piece; this is in reference to Carlton's survey.

A.—In the vicinity of Red Bluff.

Mr. Klotz—It is opposite Red Bluff, in Tehama County.

Mr. Murphy—Well, that is in evidence, is it not, Mr. Robinson?

A.—Yes, sir.

Q.—Do you know anything else that would enlighten the committee or the people of the State in regard to this matter of land frauds, or frauds in obtaining possession of lands, either by forged powers of attorney or anything of the kind?

A.—No, sir; not to my knowledge.

Q.—Have you any information that you can give the committee which would lead them to acquire any information on the subject—any witness or witnesses, that you could suggest? It is a very important matter to the people of the State, and we require an investigation of the matter. We are here for that purpose, and expect the aid of you gentlemen in assisting us.

A.—I don't think of any of any sort.

Mr. Meyers—You don't know of any person who was so related to these parties that committed these frauds, that their evidence would be likely to be of any account?

A.—Well, there is a party whose affidavit is here—two parties whose affidavits appear in this pamphlet—Vilas and Allee. Vilas made his headquarters here at Bridge's stable, on Sutter street. He was employed there as a bookkeeper, until recently.

Q.—Are there any other facts that you have omitted to state, which would—are recalled to your memory in relation to this matter pending before the committee, except what you have stated in the affidavit on the previous occasion in the answer of Hardenbergh against the charges made against him to the Commissioners of the Land Office—any other things recalled to your memory?

A.—No, sir.

Q.—Do you know of your own knowledge of any frauds having been committed since the displacement of Mr. Hardenbergh from that office, in the Land Office, at the present time?

A.—No, sir.

Mr. Klotz—This money which Kimball had sent down, did he send it down before he got a title to his land, do you recollect?

A.—Yes, sir.

Mr. Murphy—I suppose it is necessary in a case of that kind to send down the money before you can secure a title.

A.—The survey has to be done as a preliminary step.

Mr. Higbie—Did it purport to be sent for a survey to be made, or for what purpose?

A.—I didn't see the money. It was told to me that it was sent to influence the Surveyor General to approve a certain survey of segregation.

Q.—And that was this land above Red Bluff?

A.—Yes, sir; the land was held in abeyance for a good while, and finally the Surveyor General sent a deputy up there to make an examination of the character of the land, and upon his report the survey was approved.

Mr. Murphy—You don't know of your own knowledge of any frauds having been committed by Mr. Kimball, of Red Bluff, in entering or obtaining possession of this land—either State or United States lands, in this State?

A.—No, sir; not to my knowledge.

Q.—Did any information come to you second handed in regard to the matter?

A.—Well, I was present in the office there when that conversation took place that is set forth in my affidavit.

Q.—Between Kimball and Mr. Hardenbergh?

A.—Yes, sir.

Q.—In regard to money that he had sent?

A.—Yes, sir.

Q.—You heard him distinctly—or did you, or did you not hear him distinctly say, that he had sent five or seven hundred dollars—no matter what the amount was—for the purpose of procuring General Hardenbergh's consent and approval of the survey of Carlton's segregation; Carlton's survey?

A.—He admitted that he had sent the money to Mr. Chapman for that purpose.

Q.—Did he admit in his conversation, either by implication or otherwise, that that money was intended as a bribe, or anything of that kind?

A.—I don't think he used the term "bribe."

Mr. Higbie—Simply to get the survey confirmed?

A.—Put it through.

Q.—Do you know anything of another survey made in some valley up there, where, in the first instance, it was declared to be dry land, or not swamp land, and afterwards it was reserved by some man, the stakes pulled up, and it was declared to be swamp land—in the interest of some parties?

A.—The party who made the survey made an affidavit, which appears in that book which you gentlemen have. He swore to those facts before me as United States Commissioner here.

Mr. Klotz—Didn't Mr. Kimball tell Mr. Hardenbergh that he had sent him five hundred dollars, or seven hundred dollars, down to him, because he thought it had been a good deal of trouble to have his land surveyed—considerable trouble to Mr. Hardenbergh?

A.—No, sir; the land was paid for, or the survey was by United States appropriation.

Q.—But had not Mr. Hardenbergh been to some trouble to have the survey made, or something to that effect?

A.—The money was not sent to Mr. Hardenbergh. It was sent to Mr. Chapman.

Q.—Was it not given by Chapman to Hardenbergh?

A.—Yes, sir; by Chapman to Hardenbergh.

Q.—That is what I mean. Well, didn't Mr. Kimball tell Mr. Hardenbergh that that was his reason for sending it?

A.—I didn't hear him say so. On page fifty-nine of the report in the Joint Committee on Public Lands—public and State lands—

Mr. Murphy—Is that the report of the last Legislature?

A.—Of the last Legislature. There is an affidavit of D. D. Brown, Deputy Surveyor, made before me as United States Commissioner.

Mr. Higbie—Do you recollect what the reasons were, as assigned by Mr. Brown, why he took up the stakes and declared it to be swamp land in the second instance, when it was not, the first?

A.—Well, I think he sets that forth there.

Mr. Murphy—The affidavit reads as follows: "D. D. Brown, being duly sworn, deposes and says that: 'as United States Deputy.'" [Reads.] When did this survey occur?

A.—It states there eighteen hundred and sixty-nine, I believe.

Q.—Were you in the United States Surveyor General's office at that time?

A.—No, sir; I was not at the time it was made. It was sworn to before me in eighteen hundred and seventy-one.

Q.—As Commissioner?

A.—Yes, sir.

Q.—Is that a separate office?

A.—Yes, sir.

Q.—United States Commissioner?

A.—Yes, sir; I was United States Commissioner, appointed by the Department. The United States Surveyor General is not authorized to administer oaths, but almost all parties have to be sworn in the office.

Q.—You were not in any office in connection with lands at the time that this survey was made by Mr. Brown?

A.—No, sir. I was Commissioner in the United States Surveyor General's office at the time of the affidavit.

Q.—Well, the affidavit shows for itself. You don't know anything of the truth of the facts in the affidavit, except from his verifying it under oath?

A.—No, sir.

TESTIMONY OF JAMES F. STEWART.

JAMES F. STEWART, called, sworn, and examined:

Mr. Murphy—State your name, residence, age, and occupation.

Answer—My age is sixty; occupation, attorney at law; residence, in San Francisco.

Question—Mr. Stewart, we are not conducting this investigation on the strict principles of law in examining witnesses; our object mainly

being to get at the truth as near as we can in relation to this matter, and if we violate any of the principles of evidence, of course you will excuse us in this matter. We are not all lawyers. We wish to get at some facts in relation to the alleged frauds committed on the settlers of this State by land grabbers and land monopolies, and any facts which you know in relation to this matter will not only be cheerfully received by the committee but by the Legislature, and through them by the people of the State. If you know anything in relation to this matter, I will be very happy to have you state it?

A.—It is a very important matter. It was but a moment since I came into the room, and I have not come prepared to lay the matter before the committee. But if you could stay here till Monday afternoon—it will take some time till I can get an opportunity to prepare myself—I would like to make a statement in regard to one matter which affects a portion of the settlers of this State very much. I can only make a statement in relation to one matter, and I only come partially prepared upon this short notice.

Q.—If you desire further time, I think it would be the sense of the committee to give you time to make a full and ample statement, and not require any cross-questioning on anything of that kind. I think it would be better.

Mr. Meyers—You are not prepared to make any statement?

A.—Yes, sir; I am prepared to make one or two statements. I will go as far as I can.

Mr. Murphy—Well, that would be enough.

Mr. Higbie—Mr. Jones, can you hear me?

The Reporter—Yes, sir.

A.—I suppose it does not make any difference whether it is in reference to Spanish grants, other lands, or Chippewa scrip locations.

Q.—Anything. Only when you start in on any particular point finish it up.

A.—Yes, sir. I would like to make a statement to the committee, as they are making investigation of this kind, and as frauds are being perpetrated in various parts of the State, and in various ways—in reference to the Ranch of Guadaloupe, situated in Santa Barbara County. This grant was confirmed by decree of the District Court. The confirmation was passed upon a map in the Mexican survey, which is called the juridical survey when made according to the Mexican law. The Mexican survey, according to courses and distances, as computed by this draughtsman in the United States Surveyor General's office, was less than twenty-two thousand acres of land. In September, eighteen hundred and sixty, the United States Surveyor General issued instructions to a deputy to make a survey of said ranch, in accordance with the decree of confirmation. I think the monuments would include, perhaps, two or three thousand acres of land more than the courses and distances.

Mr. Higbie—By monuments, you mean of the juridical survey?

A.—Yes, sir; of the juridical survey; but instead of running the south line to a live oak tree on the top of Sulphur Hill, as called for in the juridical measurement, and which the juridical measurement states to be one league and a quarter from the ocean, he run the line two and a half leagues past this oak tree with the marks on it, and adopted a tree without any marks on it, thus taking in a part which made the survey, instead of about twenty-two thousand acres, over thirty-two thousand acres. That survey was carried into patent in eighteen hundred and sixty-six, and the owners of the ranch sold the

ranch out to a man by the name of Ward, who adopted the survey of eighteen hundred and sixty as the Rancho of Guadalupe, first describing it by the juridical survey, and then giving the same line as surveyed by James Terrill, Deputy Surveyor, in September, eighteen hundred and sixty, now on file in the United States Surveyor General's office of California.

Mr. Higbie—Was this survey made by order of the United States Surveyor General?

A.—Yes, sir. Ward and a man by the name of John Nugent filed certain evidence in the Surveyor's General's office, stating that the survey had not been legally made, etc., and insisted upon the patents being sent back and a new survey made. This was at a time, I think, when a large portion of the fraudulent surveys of Mexican grants were made through the Surveyor General's office.

Q.—This was in what year?

A.—Well, I could not be positive as to the year. Let me see; eighteen hundred and sixty-seven or eighteen hundred and sixty-eight, I think; perhaps somewhere along there; eighteen hundred and sixty-seven or eighteen hundred and sixty-eight, I think. I think, perhaps, these affidavits that I speak of may have been made in eighteen hundred and sixty-six. I think there was a new survey made in eighteen hundred and sixty-seven. These affidavits went to Washington; and I will here state that the first patent, in eighteen hundred and sixty, was issued by Edmonds, Commissioner of the General Land Office. He went out of office, and the application for a larger survey and patent was made to his successor, Wilson. Mr. Wilson ordered an examination into it, and finally a new survey was made, taking in, I think, somewhere in the vicinity of six thousand acres of Government land south, going up four miles further on the ocean, and taking in about five thousand acres, I should judge, of land that belonged, as I considered, to the Rancho Pamo de Laguna.

Q.—This survey was also made by the authority of the United States Surveyor General?

A.—Yes, sir. This survey was sent to Washington, and Wilson issued a patent on that also, having recalled the first patent. He issued this second patent while the first patent lay in his office uncanceled. That made about forty-three thousand acres of land. I printed a brief in a fraudulent survey, made of (south Lal Laguna,) in Los Angeles County, where six leagues were fraudulently included in that grant, and in exposing that fraud I referred to this Guadalupe case, as showing the Commissioner what immense frauds were being perpetrated upon the Government. The Commissioner had then sent a patent out here to be issued, and he immediately telegraphed to Sherman Day not to deliver the patent when it arrived, but to send it back to Washington. Mr. Day sent it back as soon as it arrived. A letter came on to Mr. Wilson, stating in substance what I had stated in regard to the transactions, and ordering the case to be opened up, to have a full investigation into it. The result was that I put in proofs that I considered fully sustained the allegations of fraud; in fact, I know I did. I made an affidavit swearing that I did, and the papers went to Washington, and Mr. Drummond examined the case thoroughly. I stated also in my objections to the second survey, that the first survey I considered final, under the Act of June fourteenth, eighteen hundred and sixty, which provides, that if a survey is made under that Act, and no objections made against it, the survey and patent shall have all the force and

validity under the law; the survey and map shall have all the force and validity, as though a patent to the land had been issued by the United States, under the ground that no objections being made against it, it was to be considered final; and the Commissioners understand that fact, and upon that point he decided that the first patent was a valid patent, and the second patent was invalid and ordered canceled. Mr. Nugent and others appealed to the Secretary of the Interior, and they obtained Jeremiah Black to assist them in an argument before the Secretary of the Interior. The Secretary sustained the objection, or the law officer of the Secretary gave notice that they would sustain the opinion of the Commissioner, and they asked to have it committed to the Attorney General. It went to the Attorney General's office, and was referred to the Solicitor—the Solicitor General of the office, and he made a report on it also sustaining the Commissioner's decision, and then it came back to the Secretary's office, and the Secretary confirmed it here and ordered it canceled.

Q.—That was the second patent?

A.—Yes, sir; that was the second patent. Then the first patent was sent out here to be delivered to the parties after the cancellation of the patent, as I am informed. I don't know about this, except what I have learned from letters from my attorney there. He is there, and associated with me. After the patent was canceled, I understood that Mr. Nugent went to the Secretary and insisted on his giving a certified copy of this canceled patent, in order that he might inaugurate some suit to establish his rights, if he had any. The Secretary ordered the Commissioner to give him a copy, and to remove the cancellation until he could give him a copy. The Commissioner gave him a certified copy of the patent, with his opinion attached to it, the opinion of the Solicitor General, and of the Secretary, and with the cancellation on it, then the Secretary's letter to remove the cancellation, and it all showed upon the patent as it came out. All these things were attached to it, showing the whole transaction, with the opinions, and everything. The owners of the Guadalupe, or Theodore Wright, I believe, had a mortgage on the land, and I believe and I think they conveyed the land to him to secure his mortgage. They commenced a suit in the United States Circuit Court against the settlers on this land, and Mr. Nugent, with his certified copy, comes into the Court and files that as a valid patent. Well, the settlers of course have no defense. If the Government has issued a patent, they have nothing to say. They have no defense to make. They made the best defense they could by showing the facts of the case, showing the patent and bringing it into Court, showing the second patent, and how it was obtained, and everything connected with it; but Judge Sawyer made a decision that the patent took effect from the time of its execution, if the grantee was willing. The grantee not being willing, in the first instance, the patent did not take effect; that is, the patent didn't commence to vest in him, because he was not willing. The second patent, he being willing to take that, the title vested in him. That is the substance of the proceeding, and he declared the second valid—to the effect that it was a valid patent. He decides against the settlers.

Q.—Were all these facts and decisions before him?

A.—All these facts were connected and attached to the patent; they are all fastened on to the patent, and are certified to as being a full, true, and correct copy; it was fastened right to the patent. The whole thing was joined together. First, the Commissioner's opinion, the Solicitor's

opinion, and the Secretary's opinion, and the facts stated as to the evidence of Nugent (Moore), and how the records of the Mexican archives and the Courts contradict these affidavits. Still, Mr. Sawyer decided that the patent takes effect, if the grantee is willing.

Q.—Guadaloupe is the name of the ranch?

A.—Yes, sir; Guadaloupe. Now, under the circumstances, I think that the Government of the United States should send out to the Attorney here—the United States Attorney here—instructions to file an appeal in equity at once, to set aside one if not both of these patents, as frauds. I consider the first has about two thousand acres in it more than belongs to it, and the second has certainly eleven thousand more than belongs to it.

Q.—Who is in possession? Who owns it, or is in possession of it now?

A.—Well, Wright, as I understand.

Q.—On the Guadaloupe ranch?

A.—Yes, sir; the settlers down there are poor, and they may appeal, but from such a decision, if it would be sustained by Judge Field in Washington, why, of course, under the decision, they would have no protection whatever, and would have to lose their land and lose all their improvements.

Q.—We want to get at these facts; it may be necessary for the Legislature to pass a resolution in the case.

A.—I will state here that I have written to Congressman Sargent, setting forth these facts, and urging him to go to the Commissioner, who knows these facts, and all about them, and get him to go with him to the Secretary of the Interior, and, if possible, to get an order sent out here to have a bill filed to set aside one or both of these patents; and also to furnish means to bring up witnesses, because they all have to be brought to the Circuit Court from a long distance; and it may be necessary to take photographic views of monuments, and perhaps send down surveyors to make surveys, etc.

Q.—Are there any other facts you know?

A.—That is as far as Guadaloupe. I have been requested to make a statement here in reference to Sioux scrip locations of Mr. Chapman, which I see Mr. Allee has undertaken to describe in a pamphlet published by Mr. Hardenbergh. But he has made such work of it that I wrote a letter making a statement of the facts as they are, because I was the attorney for the school locators. On the nineteenth of October, eighteen hundred and sixty-eight, the reservation for railroad purposes on certain lands of this district was removed.

Mr. Murphy—In which district?

A.—This San Francisco land district. It would take effect October nineteenth, eighteen hundred and sixty-eight, which, of course, would be at twelve o'clock at night. At eight and a half o'clock in the morning—

Q.—The next morning?

A.—Yes, sir—Leander Ransom, the State Locating Agent, went into the Land Office with a list, from the Surveyor General of the State, of lands for relocation that had been previously located while the lands were reserved. They were relocated so as to save any question as to validity while a reservation. I know at the same time, or shortly after, as I have contended all along through the case, Clinton Gurnee, in Mr. Chapman's office, came into the Land Office with some papers which he called scrip locations, and he filed them in the office on the south half

of section twenty-six, northeast quarter of section thirty-four, and northwest quarter of section thirty-five, township eight, of one south, range four west, Mount Diablo base and meridian. These were a part of the lands that Ransom had filed the State replication for. Now, the law in reference to Sioux scrip locations—for these purported to be Sioux scrip locations—and the instructions of the Department, require that the scrip should be located by the Indian in person, or by his duly authorized guardian or agent. Mr. Gurnee didn't pretend to be either the Indian or the guardian or the agent, but he pretended to act for Mr. Chapman. He produced no power of attorney, or powers of guardianship, authorizing either him or Chapman to make these scrip locations, and the instructions to this Land Office are that if the papers are not complete you will refuse to receive them. The papers were laid on the table there, and, incomplete as they were, they were finally sent to Washington in something like thirty days, I think, afterwards. My client then received notice from Mr. Chapman, as attorney for the Indian, of a contest in the Land Office in reference to these scrip locations. I immediately served a notice on Mr. Chapman, and upon the Receiver and Register of the Land Office, stating that I would require of them, on the trial of the case, to furnish the powers of attorney or guardianship under which the Sioux scrip locations were made and received. When the trial of the case came on I protested against any trial, first, because there were no scrip locations presented. We were called there to answer to the scrip locations. No scrip was produced, and no powers of attorney or guardianship authorizing anybody to appear or to contest the State's right to the land. Nevertheless, the trial was ordered to proceed, and the testimony was finally closed in the case on both sides, and the case submitted for decision.

Mr. Higbie—In what Court?

A.—In the United States Land Office. While the case was pending decision, Mr. Gurnee went to Washington, as he told me, and there was a change in the Register of the Land Office. Mr. Shanklin was removed, and the present Register, Mr. Rollins, came in; consequently this case lay some time longer, probably, than it would have lain if Mr. Shanklin had remained in the office, without being contested. In the meantime, or, I will state what I failed to state before, some declaratory statements had been filed on the land in contest. I don't think that any settlers were on the land. I think these declaratory statements were manufactured and filed on the land merely for certain purposes. These arrangements were got up here, and acknowledged by Judge Templeton. These abandonments of these preëmptors were filed in the General Land Office here, and while the case was pending here for decision in this city, the scrip locations were approved and patented, and the patent delivered to his attorney there, and sent out to Mr. Chapman. Now, I wish to make a statement in reference to the manner of the management of the Land Office at Washington and this Land Office here, which, probably, would be interesting to you and to the State at large, to know how perfect the system is, if only properly carried out. When the State makes an application in the United States Land Office, it is a written application from the Surveyor General. It goes in and is filed in the office. At this time I think there were applications, original and duplicate. They have what they call a School Location Book, for lieu land locations. These were lieu land locations. Then the State selec-

tion is noted in this book. Then they have what they call a Track Book. It is like a ledger is to a daybook, where these locations are posted in the Track Book; so that if you want to know if the southeast quarter of section thirty-four is vacant, or if there are any filings on it, you go to the Track Book, as you would go to the ledger to see what a man's final account is. And, perhaps, the northeast quarter of section thirty-four, at this time: you will find, first, a State selection, while the land was reserved; second, a State selection October nineteenth, eighteen hundred and sixty-eight; so there could be no mistaking—they would be all in the Track Book. There you can see all the frauds that there was on that land. Now at Washington, I understand, they keep their books in the same way. When the scrip comes on, you should be able to find the southeast quarter of section thirty-four—if they do their duty—in the same condition as in our Track Book. If they do their duty, they ought to do it. They post those locations immediately in the Track Book; when the scrip locations come on, they should be entered in the Track Book; State locations, in the Track Book; settlers' locations go in the Track Book. There, all the frauds show, or should show; and if the State Attorney should come in and call for a patent for land, they can open the book and see at once. Here is a State location on this land, or here is a preëmption. Now that system is perfect, if it is only carried out. At the time that these scrip patents were approved, I understand that the State selections, which were in conflict with them, were there in three different forms: First, the original applications sent in by the Surveyor General were sent on; second, the applications on unsurveyed lands, a copy of the School Location Book here (a duplicate copy was made and sent on); and third, the replication of October nineteenth, eighteen hundred and sixty-eight. They were all sent on there, and there they were lying in the Land Office when these scrip patents were issued, and yet it seems that they had not been posted in the Track Book. The moment the Sioux scrip came on it went into the Track Book, and the preëmptors filing, and all these gentlemen had to do was to get up these slipshod abandonments and send them on, and the Track Book not being posted, they issued the patent, and the excuse they gave us was that they didn't know—that they had not posted it up.

Q.—These documents were actually in his possession in Washington?

A.—Yes, sir; and the clerk should see about it, and whoever had charge of that track book ought to be turned out of his office at once for issuing patents without posting his book, without going to his daybook, it not having been posted for six months.

Q.—Still, if those facts are brought to the attention of the Department, they would not recall the patent?

A.—When the Commissioner learned the facts, he sent a letter to the Register of the Land Office here requesting him to order Mr. Chapman to return the patents. Mr. Chapman told me he wrote a letter back stating that he had sold the lands, and that he had no authority to return the patents, etc. I have not got the letter, but I think it was a very interesting letter, and it would be to the committee if they could see it.

Q.—Could it be had?

A.—I think a copy of it might be had at Washington. After the patents were issued I went into the Land Office and obtained a decision in the case at once, and they decided the case. I think one ground of the decision was that there was no powers of attorney authorizing the location; and in one case I think it was decided against Mr. Chapman

because there was improvements on it purporting to belong to a settler, and the school locator had to buy the settler out. The case was appealed to the Commissioner and he sustained the acts of their office in Washington. The patent was issued without any power of attorney being filed here according to positive instructions, or anything else. I appealed the case to the Secretary of the Interior, and the Secretary reversed the decision of the Commissioner, and ordered the land, all but one hundred and sixty acres, to some one who had the lieu lands of it, ordered the lands listed to the State, and my client has to-day from the State of California patents for three quarter sections of land; one quarter section they refused to patent because the State had made a reapplication for the case, the State had made an application for lieu land with the same quarter. I got the party who made it consent to having his listing canceled, and the land returned, and the application was made. He did not know, at least he did not know that the lieu lands belong to my client; and in addition to that, we filed those lands and made a reapplication, upon the theory that no valid application had ever been made by Mr. Chapman, because the instructions of the Department being imperative that scrip should be located by the Indian in person, or by his duly authorized guardian, or agent, and that the papers of guardianship, or attorney, must be presented with the scrip by the locator, and where not complete the Register, or officer, should not receive it. In consequence of the scrip being filed in this case without any power of attorney, or any power of guardianship, and on the ground that no location had ever been made, we subsequently filed lieu lands and asked to have that one hundred and sixty acres listed to the State, but the Secretary made that objection that inasmuch as a patent had been issued he thought he would not disturb it. Then I wrote to the attorney at Washington and asked him to go into the Land Office and see these powers of attorney that they filed there; it seemed that they filed some powers of guardianship, or attorney, there, and he went in, and I think he found most everything incomplete; for instance, a power of attorney acknowledged by a Notary Public in another State cannot be used in this State at all, without something further to it authorizing it to be used; and, in the case where the one hundred and sixty acres was not listed—where it was not listed this is the kind of form; I hold in my hand a copy. It is not certified, but it is a copy from a certified copy, which is in this State, of the power of guardianship on file, or that was on file, when the copy, of which this is a copy, was made, in the General Land Office at Washington. Shall I read it, or shall I file it as an exhibit?

“Know all men by these presents, that I, William B. Williams, guardian of Joseph Bird, of Dakotah County, State of Minnesota, have made, constituted, and appointed, and by these presents do make, constitute, and appoint William S. Chapman, of Ormsby County, Nevada Territory, true and lawful attorney for me and in my name, place, and stead, to select and locate, at any Land Office in the United States, the lands to which my said ward may be entitled to by reason of his ‘Sioux Half-breed, Lake Pepin, Reserve Scrip,’ to wit: Number three hundred and fifty-nine, letter A, for forty acres; Number three hundred and fifty-nine, letter B, for forty acres; Number three hundred and fifty-nine, letter C, for eighty acres; Number three hundred and fifty-nine, letter D, for one hundred and sixty acres; Number three hundred and fifty-nine, letter E, for one hundred and sixty acres. Said scrip being granted and issued to Joseph Bird in accordance with the provis-

ions of an Act of Congress, approved July seventeenth, eighteen hundred and fifty-four, entitled an Act to authorize the President of the United States to cause to be surveyed the tract of land in the Territory of Minnesota belonging to the half-breeds or mixed bloods of the Dakotah or Sioux nation of Indians, and for other purposes, and on such location to ask for and receive the patent therefor; hereby declaring all lawful acts of my said attorney, in the premises, of the same valid and binding force as if done personally by me. And I further ordain and declare that he, the said William S. Chapman, is hereby irrevocably vested with all such power and authority as I might or could exercise personally if present and acting; hereby ratifying and confirming whatsoever my said attorney may lawfully do in the premises.

In witness whereof I have hereunto set my hand and seal this twenty-third day of February, A. D. eighteen hundred and sixty-four.

JOSEPH BIRD,
By W. B. WILLIAMS, Guardian.

Stamped, sealed, and delivered in the presence of—

R. P. RUSSELL,
JNO. MURRAY, Jr.

STATE OF MINNESOTA, }
County of Hennepin. }

On this twenty-third day of February, A. D. eighteen hundred and sixty-four, came before me, William B. Williams, guardian of Joseph Bird, to me personally known to be the person who executed the foregoing power of attorney, and acknowledged that he executed the same for the uses and purposes therein expressed.

JOHN MURRAY, JR.,
Notary Public, Minnesota.

{ L. S. }

Secretary's certificate forwarded with application number one hundred and forty-nine, also guardian papers with same.

W. T. LOCKHART, Register.

Sioux Half-breed or Dakotah scrip, Act seventeenth of July, eighteen hundred and fifty-four.

UNITED STATES LAND OFFICE, }
San Francisco, October 19th, 1868. }

Number of scrip, three hundred and fifty-nine, letter D, registered and recorded, number one hundred and ninety-four.

I, Joseph Bird, of ——— County, State of ———, do hereby apply to locate, and do locate the northwest quarter of section number thirty-five, in township number eight south, of range number four west,

Mount Diablo, in the district of lands subject to sale at the Land Office, at San Francisco, containing one hundred and sixty acres, in satisfaction of attached scrip numbered three hundred and fifty-nine, letter D, issued to me under the Act of July, eighteen hundred and fifty-four.

Witness my hand this nineteenth day of October, eighteen hundred and sixty-eight.

JOSEPH BIRD.

WM. S. CHAPMAN, Attorney in fact.

UNITED STATES LAND OFFICE,
San Francisco, Cal., October 19th, 1868. }

We hereby certify that the attached scrip, number three hundred and fifty-nine, letter D, was this day offered for location on the northwest quarter of section number thirty-five, of township number eight south, of range number four west, Mt. Diablo meridian, containing one hundred and sixty acres, and by the party authorized to make the location.

Attest:

JAMES W. SHANKLIN, Register.

CHARLES H. CHAMBERLIN, Receiver.

Now, in reference to that paper (page two hundred and twenty-eight), I have to say that, with his power of attorney as filed in the Land Office there is two letters of guardianship authorizing this William B. Williams to act as guardian, but they are not enough to show that he had any right whatever to execute this power of attorney to William S. Chapman; and I believe that Henry Beard, attorney at Washington, has made written application once or twice to the Commissioner of the General Land Office to have these papers showing the authorization of William B. Williams to appear as guardian, and the Secretary of State's certificate, which is, if I remember, with this power of attorney, either produced or to state what had become of them, or where they could be found. But this is all that we have ever been able to get of that source of guardianship. Now, I wish to read to the committee another power of attorney from the same Indian:

"Know all men by these presents, that I, Joseph Bird, of Ramsey County, State of Minnesota, have made, constituted, and appointed, and by these presents do make, constitute, and appoint William S. Chapman, of Ormsby County, Nevada, true and lawful attorney for me, and in my name, place, and stead, to select and locate at any Land Office in the United States the lands to which I may be entitled by reason of my Sioux Half-breed, Lake Pepin Reserve Scrip, to wit: Number three hundred and fifty-nine, letter A, for forty acres; number three hundred and fifty-nine, letter B, for forty acres; number three hundred and fifty-nine, letter C, for eighty acres; number three hundred and fifty-nine, letter D, for one hundred and sixty acres; number three hundred and fifty-nine, letter E, for one hundred and sixty acres; said scrip being granted and issued to Joseph Bird in accordance with the provisions of an Act of Congress, approved July seventeenth, eighteen hundred and fifty-four, entitled an Act to authorize the President of the United States to cause to be surveyed a tract of land in the Territory of Minnesota belonging to the half-breeds or mixed bloods of the Dakotah or Sioux nation of

Indians, and for other purposes, and on such location to ask for and to receive the patent therefor; I hereby declaring all lawful acts of my said attorney in the premises, of the same valid and binding force as if done personally by myself.

And I further ordain and declare that the said William S. Chapman is hereby irrevocably vested with all such power and authority as I might or could have exercised personally if present and acting, hereby ratifying and confirming whatsoever my said attorney may lawfully do in the premises.

In witness whereof I have hereunto set my hand and seal, this twenty-third day of February, A. D. eighteen hundred and sixty-four.

his
JOSEPH + BIRD [SEAL.]
mark.

Signed, sealed, and delivered, in presence of—

R. P. RUSSELL,
JOHN J. MURRAY, Jr.

STATE OF MINNESOTA, }
County of Hennepin. }

On this twenty-third day of February, A. D. eighteen hundred and sixty-four, came before me, "Joseph Bird," to me personally known to be the person who executed the foregoing power of attorney, and acknowledged that he executed the same for the uses and purposes therein expressed.

JOHN MURRAY, Jr.,
Notary Public, Minnesota.

{
SEAL
}

UNITED STATES OF AMERICA, }
State of Minnesota, }
Secretary's Office. }

The Secretary of the State of Minnesota does hereby certify that John Murray, Jr., whose signature appears to the annexed certificate, was from September twentieth, eighteen hundred and fifty-eight, to August fourth, eighteen hundred and sixty-two, from August twenty-sixth, eighteen hundred and sixty-two, to August fourth, eighteen hundred and sixty-six, and from August seventh, eighteen hundred and sixty-six, to this date, and now is, a Notary Public in and for the State of Minnesota, residing in the County of Hennepin, duly appointed and qualified, and empowered by the laws of this State to administer oaths, take depositions, acknowledgments of deeds, and other written instruments, and exercise all such powers and duties as by the law of nations and according to commercial usages may be exercised and performed by Notaries Public; that full faith and credit are due and should be given to his official acts as such Notary; and that the said signature is believed to be genuine.

In testimony whereof, I have hereunto set my hand and affixed the Great Seal of the State, at the Capitol, in Saint Paul, this twenty-eighth day of May, A. D. eighteen hundred and sixty-seven.

[Seal of the State of Minnesota.]

H. C. ROGERS,
Secretary of State.

A true copy of the original recorded at request of William S. Chapman, March eighth, eighteen hundred and seventy, at nine o'clock A. M.

[Five cent Internal Revenue Stamp, canceled.]

JOHN E. TATE,
County Recorder.

By H. B. THOMPSON, Deputy.

STATE OF CALIFORNIA, } ss.
County of San Mateo. }

I, H. B. Thompson, County Recorder in and for said county, do hereby certify the annexed to be a true, full, and correct transcript of the record of an instrument, as the same is recorded in my office, in Book Three of Miscellaneous Records, pages five hundred and ninety-seven and five hundred and ninety-eight.

In testimony whereof I have hereunto set my hand and affixed my official seal, this eighteenth day of July, A. D. eighteen hundred and seventy-three.

H. B. THOMPSON,
Recorder.

[Seal of the County of San Mateo.]

A. F. CORNELL, Deputy Recorder.

Mr. Murphy—Where are the original copies at the present time?

A.—This is a certified copy from the County Recorder's office in San Mateo County. The original of this is there on file.

Q.—San Mateo County?

A.—Yes, sir. This is a certified copy from the County Recorder's office of San Mateo County, filed, as I stated here, at the request of Mr. Chapman, "Recorded at the request of William S. Chapman." Now I wish to state that, in reference to these two powers of attorney, that they both are for lands belonging to the same Indian, Joseph Bird, of Dakotah County, and they both purport to give Mr. Chapman authority to sell the lands of this Indian. One of these powers of attorney is executed by a guardian, on the twenty-third day of February, eighteen hundred and sixty-four, and acknowledged on the twenty-third day of February, eighteen hundred and sixty-four, before John Murray, Jr., Notary Public, Minnesota, and witnessed by R. P. Russell and John J. Murray, Jr.; and the other power of attorney, on the very same day, was acknowledged before the same Notary Public, and witnessed by the same witnesses, is signed by the Indian himself, with his mark, as an adult. One power of attorney executed by a guardian, another executed by the Indian, on the same day. The guardian executes one because he is an infant, and the Indian executes himself because he is an adult.

Q.—Do you know where these Sioux scrip is located in regard to this patent—this patent you procure on this power of attorney?

A.—Not far from Pescadero, in San Mateo County. It is on valuable timber land—very valuable timber land.

Q.—You do not know anything about the dead Indian that made his power of attorney?

A.—No, sir, I don't know about that; I have heard of it. We are prepared to prove that our arrangements of preëmption—a preëmptor who was represented as having acknowledged it before Mr. Templeton, had not seen Mr. Templeton, at that time, for some two years.

Q.—You say that you have no further statement to make in regard to it?

A.—I was going to make a little statement in reference to these school lands, if the committee will hear it. Congress granted to the State of California every sixteenth and thirty-sixth section in the State for school purposes, and provided that where any of these were lost by being included in the Spanish or Mexican grants, or taken by preëmtors previous to the survey, or lost to the State in any other way, the State should have the right to select other lands in lieu thereof. At first they commenced making selections on unsurveyed land. The Courts decided that these locations were illegal, and that they could not be made until the lands were surveyed. Congress afterwards passed an Act confirming these unsurveyed selections, where parties had bought the lands of the State in good faith and made payments on them. Now, a great many of these selections were made of lands in lieu of lands that are shown to be in place, and the State not entitled to indemnity for them; and hence a good many parties who hold lands located on unsurveyed lands, confirmed by the Act of Congress of July twenty-third, eighteen hundred and sixty-six, and that everybody, by making their selections, so far as what they called lieu lands are concerned, or lands in lieu of which their locations are made. For instance, if a location is made of three hundred and twenty acres of land in lieu of a part of a section sixteen included in some Spanish grant, and after the location shall have been made, the grant lines shall have been changed so as to leave the land outside of the grant in section sixteen, then the school foundation would have no foundation to rest on; still it is confirmed by Act of Congress of July twenty-third, eighteen hundred and sixty-six, and the last section of the Act, I think, provides that the State shall not be entitled to indemnity for any more lands than is embraced in the sixteenth and thirty-sixth sections. Then a great many locations have been made on surveyed lands, where the parties have made applications in good faith to the Surveyor General, and their applications have been received, filed, and, as a general thing, in early locations, the State locating agent supplied the lieu lands he has selected, wherever he thought the State was entitled to indemnity. He made the location in lieu of said lands, and the purchaser, acting upon the faith which he had in the State locator, paid the first payment to the State, and continued to pay the interest, in many locations, down to the present time—well, for years back.

Mr. Higbie—That was the locating agent?

A.—Yes, sir. Now there are many locations of that kind where part of the lands have been listed, and the balance cannot be listed. Why? Because speculators have got the control of them. They got the whole of these lieu lands, as they call them. They have the knowledge as to where these lands are, that the State has authority to use, not used up, and they are selling them for three dollars and fifty cents an acre. They commenced selling them for fifty cents, and then they got up to a dollar and a dollar and a half, and then to two dollars, and now, I believe, they are asking about as high as three dollars and one half an acre, which you have to pay the speculator, who is dealing in these lieu lands, or the lands for which the State is entitled to indemnity for, and the dollar and a quarter which you pay the State, makes it amount to almost as much as you would have to pay the State for agricultural scrip location—five dollars an acre.

Mr. Higbie—Can you tell how the speculators get possession of these lands?

A.—It is impossible for me to tell how they got the knowledge as to where these lieu lands are, and these indemnity lands are, and how they controlled them. I do not profess to know; I have heard a good many times; I think it might be well for the committee to make further inquiry from others who are better posted on that point than I am.

Mr. Murphy—You know nothing of your own knowledge in regard to that?

A.—I think, however, Colonel Ransom and Mr. Shanklin—James W. Shanklin—are better posted on those points than I am; and I can give you very little information in regard to that—Leander Ransom, the State Locating Agent.

Mr. Higbie—I interrupted your statements with that inquiry. I wanted to get at that point.

A.—Sometimes since I felt considerably exercised, somewhat, on the subject—on these lieu lands—having clients who were likely to lose their lands, because they could not buy the knowledge of the location of these indemnity lands at the prices asked, and I wrote a letter to the Commissioner in the General Land Office, of which I have copies here, and would like to submit to the committee, upon this very subject. My suggestion was, that as these locations are made, and I brought the idea up, that the Commissioner of the General Land Office should certify them to the State as fast as possible—the early locations, commencing at the lower numbers and certify them along up, and then those who come in last, if the lieu lands fail, why, of course, they ought to lose instead of those who have obtained their certificates of purchase, and been paying interest to the State for years. My theory is that the first locators should get their lands. If, in going along up, the number and location is found—that the lieu lands are not good—the State should supply lieu lands; that should not be allowed to sell indemnity lands in this way. If they cannot supply the indemnity lands with the lands which have not been used, they should take the indemnity lands out of the last locations and pay them in the former locations, until the locations are all made up complete; and then, when indemnity lands are exhausted, those who have not any indemnity lands to supply their locations, why, let Congress either come to their relief or they should buy the Commissioners. I have given it thought, because I had a client who had some two thousand and odd acres of land that he had located under the State, and got his certificate of purchase, and had been paying interest for some time to the State—I think for two or three years—and a portion of his indemnity lands were not good, and I wrote this letter to the Commissioner, suggesting to him to pursue this course in said Surveyor General's office, so far as he discovers them. If he leaves speculators to sell them, and these men go without any indemnity lands in their locations, those whose locations are imperfect, why, a wrong will be inflicted upon them, and it will be a speculation which I think has been shameful for years. I have witnessed it a good many years. I can take you to-day to a man, if you want to buy a three hundred and twenty-acre or one hundred and sixty-acre plat of land from the State of California, as a lieu land location—at least I think I can. I have never failed before in it. If I can do it, and you will pay him three dollars and fifty cents an acre, he will find where the indemnity lands

are. He will send up to Sacramento, and they will send down and inform you. I have never failed in that. I don't wish to reflect on anybody, but I can take you to a man there, not a thousand miles from next door to the United States Land Office.

Mr. Higbie—That is what we want.

A.—These men have been selling these lieu lands for years, and making a good deal of money on it. We have had to, sometimes—when our clients wanted to get lands—we had to submit to these extortions. As I say, I commenced paying first one dollar, and have paid as high as three and one half.

Mr. Murphy—For information as to the place?

A.—Yes, sir; to ascertain where these indemnity lands are.

Mr. Klotz—An acre?

A.—Yes, sir; three and one half an acre.

Mr. Meyers—Simply for the information?

A.—Yes, sir.

Mr. Higbie—And then bought the lands afterwards?

A.—Yes, sir. Go to a certain gentleman and tell him you want to get one hundred and sixty acres of land—"Can you furnish us with one hundred and sixty acres of land?" "Yes." "Well, what will you charge me?" "Well, they are worth three dollars and twenty-five cents to three dollars and fifty cents." If you pay him the money, you will get your location. You go to the Land Office, and when Mr. Hastings was in the office that would be listed over to the State, when all the old locations that were lying there were laying there, and nothing being done with them.

Q.—What Hastings?

A.—C. F. Hastings—the man that you have legislated out of office. I believe you have abolished the State Agent's office at Washington.

Mr. Meyers—Those lands would take the preference of the old locations?

A.—By examining the lists I could bring you, in a few moments, the lists would show you how regularly these lists go. For instance, numbers three and four, some of the first locations that are made, will come on in a list with some that will be up to three thousand—number three thousand and odd. It is depending in a measure on how much is paid for getting the lands listed.

Mr. Klotz—The more the quicker?

A.—Yes, sir. I wrote that document and wrote another document because I wouldn't submit to any extortions—to be obliged to pay any more than two and one half per cent. I had a client who could not afford, and didn't want to afford to pay it; and I insisted on getting that location, which was some two thousand acres, and getting as much as I could of it listed without being obliged to pay anything outside of two and one half cents an acre, which the State Agent was entitled to. After my location being kept back for a long time, I think some two years, I wrote that letter to the Commissioner. The result was I got nineteen hundred and odd acres of the land listed.

Q.—Could you or could you not get that information of anybody as well as this man that you applied to; who deals in lieu lands?

A.—Really, I can't tell you. He has the knowledge and knows where these lands are.

Mr. Higbie—He sends to Sacramento to get the information?

A.—He sends there to get the location, and draws up the location, and draws it up and knows the land, and sends it up there.

Q.—Have they not got knowledge of the lands?

A.—I wish you would ask Mr. Ransom and Mr. Shanklin in regard to it.

Mr. Meyers—Do you know?

A.—I don't know. I never tried.

Mr. Murphy—Have you ever had to pay from one dollar to three and a half dollars for information on the subject?

A.—I rather think I have a receipt now in my office for a recent purchase I made in that way for a man down in San Luis Obispo, and I was very much amused to see how quick the land was listed to the State when all these old locations were left behind.

Q.—This man is not an officer of the State?

A.—No, sir.

Q.—Just an outsider?

A.—Yes, sir. Well, they are men that have dealt largely in the matter. My theory is that the State should protect its purchasers; that the men who bought the lands of the State and relied upon the State to perfect the locations, made their first payment and continued paying interest, that if there are any spare lieu lands, or indemnity lands, the State should use them to perfect these locations that they find are imperfect, where they have made sales. Well, the Act of Congress says that where the State of California, in good faith and for a valuable consideration, has sold land to purchasers in good faith under her laws—I say that where she has done this in good faith, and the indemnity lands are not good, she should supply them with the first indemnity lands that comes to the knowledge of the Surveyor General, and they should be used to make the location good instead of using it for subsequent locations. Unless these first locations go, some will have to go to the wall after awhile. Some have to be thrown out unless Congress comes to their relief. I implored the Commissioner to list the first lands to the State because I knew they were running wild in this State and were making their boast that when they got the thing in a mixed up condition they would apply to Congress for relief, as they did in eighteen hundred and sixty-six. And after these men had succeeded in selling these lieu lands, they then intended to apply to Congress to relieve perhaps the very land that they had sold to parties, or those who had been wronged by that selling.

Mr. Higbie—Do you know whether when Ransom became the locating agent of the lieu lands, when he made the location or selected the lands in lieu of those that had been taken—whether he informed the Surveyor General of the State of the fact of such location?

A.—It was his duty to inform the Surveyor General, if he was the State Locating Agent. He should see that the application was filed, and in the Land Office, and then copies were sent to the Surveyor General. Everything is like clock-work; and when Colonel Ransom was in the office, I think he generally, if not always, selected the lieu land, the indemnity lands, himself.

Q.—Would not the inference be that the information would lie between him and the Surveyor General of the State?

A.—The Surveyor General ought to know when the application comes up whether the lands have been used before or not. The Surveyor General, of course, must know. If a location be made to day for three hundred and twenty acres of land in lieu of three hundred and twenty somewhere else, his records must say whether that land had ever been used before; and if not, whether he should receive it, or some one else,

who would be minus three hundred and twenty acres of indemnity lands.

Mr. Meyers—Are there many of the early lieu locations that are sold, not listed?

A.—Oh, a great many; a great many. Now imagine a man who has got one hundred and sixty acres of land selected under the statute as lieu land. It is very valuable to him, and he employs counsel to get it listed to the State, and ascertains that the indemnity lands have already been listed in some location that was made subsequent to this. Now it has been the case, sometimes, that two, perhaps three, maybe more—I have heard as high as seven—made for the same indemnity lands. I don't think anything of that kind is being done now; I think Mr. Gardner keeps his books straight, and I don't think anybody could impose upon him, or upon the United States Land Office now, with a second location with the same indemnity lands; but in early days they used to do that. The location would be made to-day in lieu of the one hundred and sixty acres in some Spanish grant, and, perhaps six months afterwards, or a year afterwards, a location would be made of the same in lieu of the same lands. Then if the second location was listed first, why, the first man must either go into Court and have a lawsuit, or submit to the exactions of some one, to furnish lands to perfect his location. The general way has been to buy these lands, to buy the knowledge of them; and people have done that, or submitted to that, rather than go to the expense of a lawsuit to recover their lands back again, or to run the risk of losing their locations.

Mr. Chandler—Any of this land that has been bought from the General Government, and then afterwards the segregation has been stretched over it, and it has been listed to the State, and has been bought by these swamp land owners?

A.—The swamp land matters Shanklin is more familiar with than I am; I have had but very little practice in swamp lands; my practice has been in lieu land locations.

Mr. Meyers—Do you imagine that so many of these lieu lands are located and will be located, that the first indemnity locators are in danger of being entirely shut off?

A.—Yes, sir, shut out; Congress will have to come to their relief or they will lose their locations.

Mr. Higbie—Well, do you know any good reason why such information might not be received by any person desiring the information in regard to lieu lands, as these parties, who are making two or three dollars an acre on each location?

A.—Well, I don't know; they have the inside track; that is all I know; I know they can always get these lands when they want them; they can always get them, when they sell them and make their money out of it; I know I cannot do it, and I think a man buying land cannot get it.

Q.—And the information has to be got from Sacramento?

A.—The information—you have to buy this information from some one here, generally, if you want it.

Q.—The question is, where do they get their information?

A.—That is something I cannot tell where they get it. I have never known them not to be ready to make a sale.

Mr. Chandler—Ought it not to be at the Land Office—at the Land Office they certainly ought to have a knowledge of all these lands?

A.—Well, I will state that when Mr. Bost—John W. Bost—was the

Surveyor General here, I understood that he stopped all locations in lieu lands, for the reason that so many locations had been made that were not good on account of the lands being in place, in lieu of which they were made. He stopped the location of these lands in order to perfect these locations; and since, they have been selling them, I believe as fast as they can find them, and I believe could get purchasers; and by and by they will be all gone; and I am afraid there are a good many locations on hand that will have to be—the State will have to refund the money paid to them, owing, perhaps, to the owners losing the land.

Mr. Higbie—You don't know, of course, where such information can be had, or where these men get it?

A.—I don't know where they get it. I think Ransom can give you some little idea of that.

Mr. Meyers—You could not tell, then, whether these men had maps and plats, and studied the matter, or whether it was because they were in collusion?

A.—No, sir. I can tell you that these men have their maps and everything perfect. One of them is a surveyor himself, and very intelligent, and I think a scientific surveyor, and has these maps and books and everything; he has a perfect land office. The information may be in the main got in that way, by keeping track of all the sixteenth and thirty-sixth sections in the State, and keeping track, as the surveys are being made, in the Surveyor General's office.

Q.—How does it happen he can get it from the Surveyor General's office?

A.—From the Surveyor General of the United States.

Q.—Then how would they know how the Surveyor General had fixed the lieu lands?

A.—I will explain to you. Every Spanish grant that is surveyed, if of any size, would have more or less sixteenth and thirty-sixth sections included in it. Then, for every six hundred and forty acres included in the Spanish grant the State is entitled to so much land. Now, if these men knew of a Spanish grant that was going to be surveyed that would include two or three sections—sixteenth or thirty-sixth sections—that information would be worth all they could get for selling the locations, because the locations would be made in lieu of these. The State loses every sixteenth or thirty-sixth section that is in Spanish grants, and lands are located in lieu. My theory is, that so far as the survey is made, and the State is entitled to lands for every sixteenth and thirty-sixth section embraced in the grants and lost to the State in any way, they ought to be reserved, and perfect locations made.

Q.—Well, didn't Colonel Ransom for a long time fix such lieu lands, and make such selections in such places himself?

A.—Yes, sir; when he was in the office, I think, as a general thing, he selected the lands himself.

Q.—Then, in order that the information might be got by these parties, they must know where those lieu locations had been made by Ransom?

A.—Yes, sir. I don't think there are any double locations being made now. I don't think there have been any since Gardner has come into office; that is, I think his system of locations has been perfect. I have always found Mr. Gardner a gentleman and a very efficient officer. I have had some considerable dealing with the office, and on such matters, but never had any cause of complaint—no complaint against him at all; but I have feared that the purchasers under the State, the early purchasers, were likely to get into difficulty in the sale of these lieu

lands, if the location of lands in lieu of these sixteenth and thirty-sixth sections was continued until they were exhausted. Because, if you will see these lists—I think I have them numbered, from one or two upward, up to three thousand—I think these wide upper numbers come into the same list. My idea is, that the locations that were first made should be, as fast as possible, perfected. If there is a location that the State is entitled to which cannot be perfected, the information should be sent on here at once. The lands, in lieu of which those locations were first made, are in place; you must supply others; and others should be supplied, which should be listed. If that plan had been adopted by the State Agent which you had there, you would not have most of these lands listed to the State now, and the poor fellows all over this State would not have been compelled, upon buying lieu lands, to pay big prices for the knowledge of their whereabouts, outside of the fees.

Q.—It is claimed now, by him and his friends, that most all the lands are listed?

A.—No, sir. If you go to the Land Office, you will see a number not listed, and then so many locations that are wanting, where a person is holding certificates of purchase. I had a client in this morning, for whom I got this nineteen thousand acres listed. There is some of it back yet. I think this location is deficient in the lands in lieu of which it is made, still he is paying on the whole purchase. He has paid the State twenty cents, and is paying interest on it all the time; and he cannot get the privilege, because he has not all his lands listed. Unless some course is adopted to stop the sale of these lands by brokers in the State, and the circulation of lands in lieu of the sixteenth and thirty-sixth sections, why these men must lose these lands, and call on the State for their money back. Now I think that the Legislature should protect its early purchasers. I have not twenty-five cents interest—not twenty-five cents interest possibly—except that I have clients in trouble, and I have been very much troubled in mind with reference to it, knowing these things, when I see men coming to me, and I cannot relieve them. I see a remedy, should the State stop the location of these lieu lands. These lieu land locations, and all parts of the sixteenth and thirty-sixth sections, remaining over to the State, for which she is entitled to indemnity, should be retained to perfect the locations already made.

Mr. Klotz—Commencing from one up?

A.—Yes, sir. Here is my letter to the Commissioner on that point; I will leave it with you; and I wrote that expressly trying to induce the Commissioner to adopt a course of listing the first locations. I was in hopes I could get him to list the first locations first, and then if any was not perfect to send it to the Surveyor General and tell him to supply the deficiency.

Mr. Chandler—Did you get any reply to that?

A.—I got a letter from him; yes, sir. I got a letter in reply, and I got Mr. —'s location listed, but I did not make anything outside of what the State charged—two and one half cents.

Mr. Meyers—Then he showed by his letter that he thinks it is proper and practicable to list them as fast as possible

A.—My impression is that all this is a matter of —. They have their agent there at Washington, the State had its agent there, the matter being in the hands of the agent.

Mr. Chandler—Well, the State has no agent there now?

A.—No, sir; this was while the agent was there.

Mr. Meyers—The State ought to have instructed them to see to it?

A.—That is the way it ought to have been.

Mr. Chandler—How are they doing now, there being no agent there?

A.—The only way we have done, when there was no agent there, was to employ counsel on the outside to attend to it.

Mr. Meyers—Each particular person to employ his counsel?

A.—Yes, sir; employ some attorney.

Q.—Well, will it be at the present time an advantage for the State to send one with those instructions?

A.—Yes, sir; if you could get an honest man there, that is what you want. If you could get such a man as James W. Shanklin, or some honest man that understands the business, just go right to work at it and would not ask any fees outside—to keep your locations back for years because you don't pay him—if you can get a man who would do that, would soon get your lands listed, and then the Commissioner of the Land Office would give him all the assistance he would need. The Commissioner of the General Land Office is a very efficient officer and is as honest as the day is long, every way. I am personally acquainted with him. Have been for eight months, and have seen him in various ways. He is a very able man, and he is ready at all times to render any assistance in matters of that kind, that he possibly can; and if you have an agent there who is honest and capable, who would attend to business, as I think it ought to be, you would soon get all these lands listed to the State. And if the agent was not paid a salary but just what the last agent was, he would make a very handsome thing.

Q.—Have you any remedy in your own mind to prevent—by which I could go and get information when I wanted to enter lands; that you have to pay for—that others have to pay for?

A.—I do not know any remedy, except to save the locations until the previous locations are perfected. Suppose I went to locate six hundred and forty acres as a lieu land location. I go to the parties and say, what will you furnish me with lieu lands for, as they call it? You know they are called lieu lands. Well, they say, we will give them to you at three dollars and a half an acre, or three and a quarter. Now, instead of my being allowed to make a location of that kind, if these men who have the knowledge of where these lands are, being allowed to speculate on them and sell them, my idea is that the State should prevent any further location of these lands until the old locations are all perfected. And my idea is that the first location should be listed—listed along; as fast as one fails for want of a foundation it should be supplied by lands that never have been used; and if they fail entirely, and are run out, then I say it should be supplied by the last locations that are made; and then there should not be location number ten thousand and location number three thousand listed in the same list. The locations should be by number up to the last locations. If any fail, the last locations ought to fail. I think that most of these sales that have been made have been sorter inside like—that is, men who were sure in making purchases, while they would require that the seller should see that the lands are listed to the State, so as to make sure of these locations. Now, if a man understood his business, he ought to know and have maps of every sixteenth and thirty-sixth section of the State—that is, an agent; he ought to know exactly what locations have been made in lieu of these-sixteenth and thirty-sixth sections. This he could tell, without there were any double locations, and the State doing as it has been doing here—listing late locations with some lands in that or in loca-

tions that have been made years before, and leaving those early locations without any foundation. One, if he understood his business and prepared himself for it, would know in a moment when he would come to a location, whether the lands had been used before or not, and could prepare a book to send to the Commissioner of the General Land Office, showing most of the locations that have been made in this district—almost all of them.

Mr. Meyers—You cannot tell, though, whether they have been nearly exhausted in this district?

A.—No, sir; but I suppose at Washington they must keep some account of their tally, in some way or other, so as to know whether they are listing twice on the same land. They ought to. All these things that I refer to are in this paper of mine. If you will read that, you will see that the thing is pretty well discussed; but I did not know of anything that would be greater to the benefit of the people commencing and making these locations, who held their lands under an Act of July twenty-third, eighteen hundred and sixty-six, some of the lands being very valuable. There are thirty thousand dollars worth. They are perfecting locations, as approved by the Act of Congress of July twenty-third, eighteen hundred and sixty-six, with this exception, that the lands are in place, and they must be supplied by those lands. They do not understand it. There are plenty of cases where the State has been paid in full, and the foundation of their location is gone, and the State ought to perfect them or supply other lands, and ought to stop all locations until the first are perfected. And they ought to commence listing the early and list them up accordingly, and if any fail, for want of lands in lieu of which the locations are made, it ought to be the last ones; and then certain speculators would have to refund the money, probably, for which they sold the lands. That, probably, would be the result of it.

Mr. Meyers—They have been required to pay some security for it?

A.—Yes, sir; I think so. There is a matter which, if I could put it in shape and lay it before the committee, I would do so, but I am not prepared to-day, because I have not got names, etc.

Mr. Higbie—Do you know of any other grants which, to the best of your knowledge and belief, are fraudulent, upon which information can also be had?

A.—Do you speak of fraudulent grants? There are a great many fraudulent grants in the State, although they are confirmed. It is a mistake, which some lawyers make, when they think that a confirmed grant can be reached by legislation, because the Supreme Court of the United States have decided that that decree is a finality, not only as to a question of title, but as to the boundaries which it specifies, and, in another case, they have decided that Congress has no power to pass a bill of review in such cases.

Mr. Higbie—Then there is no equity in this, no redress in the Guadeloupe Ranch.

A.—Only in a bill of equity.

Here the committee adjourned.

THIRD DAY'S PROCEEDINGS.

TESTIMONY OF DANIEL ALLEE.

DANIEL ALLEE, called, sworn, and examined:

Mr. Murphy—Mr. Allee, tell your name, place of business, age, and occupation?

Answer—Daniel Allee; my age is twenty-eight; I am doing nothing at present.

Question—Where are you a resident at the present time?

A.—I reside in San Francisco.

Q.—Have you been employed as bookkeeper for William S. Chapman?

A.—Yes, sir.

Q.—Do you know anything about this Half-breed Dacotah Sioux scrip?

A.—Yes, sir, I am very well conversant with it.

Q.—What is the mode of proceeding generally where parties have possession of this, to obtain possession of land?

A.—Well, parties that have possession of it—I do not know of any outside of William S. Chapman, that has any such scrip in the State.

Q.—How did he obtain possession of it, if you know anything about it?

A.—Parties own scrip—the Indians themselves in Minnesota. One of them told me, that he obtained the scrip from them, with the understanding that he was to locate it upon lands, and sell the lands, and turn the proceeds over to them; and he left the State of Minnesota and brought the scrip out here with him, and located it here; a great deal of it, and has not turned over any of the proceeds to the Indians, except in one or two cases, where the Indians were educated and compelled him to do so.

Q.—He has powers of attorney, has he not, from those parties—supposed to have?

A.—Well, he is supposed to have a power of attorney to locate it. He did have in a great many instances, which were all correct. The scrip was issued. It is a peculiar kind of scrip. In fact it is the only kind of scrip that was issued by the Government. It was locatable upon unsurveyed lands, and the Indians gave up the reservation they had in Minnesota, called Lake Pepin Reservation, for it—as the settlers got around and wanted to cultivate the land—and the Government then issued them acre for acre of the scrip for the land that they relinquished, amounting to four hundred and eighty acres to each Indian. Well, Congress, in every way, shape, and manner that it could, tried to protect these Indians against these land sharpers, and they would not allow the scrip to be located by any one except by the Indian himself. Well, they treated them exactly as they treat preëmption claimants in the location of scrip. That necessitated the driving around of the law—necessitated his taking two powers of attorney. One was the first power of attorney simply to locate the scrip on the land. That power of attorney went with the scrip and the application to locate, to Wash-

ington. There, at Washington, there was nothing to appear that William S. Chapman, or any one else outside of the Indian, had anything to do with the land, particularly as the power of attorney to locate was simply a power of attorney to locate in the Indian's name, and the Government thought that that protected the Indian sufficiently; that when they issued the patent they issued it in the Indian's name directly, and would not acknowledge any transfer. That necessitated another power of attorney, which is to sell or convey. That power of attorney is simply recorded in the county in which the land lay. The authorities at Washington had no knowledge whatever of any such power of attorney.

Mr. Higbie—You mean to say the General Government had no knowledge of this second power of attorney?

A.—No, sir; it did not go to Washington; the necessity of having two powers of attorney was to blind the authorities at Washington. The first power of attorney was simply a power of attorney to locate; as the Government issued the patent to the Indian, why they thought that the Indians were secure against any loss that way.

Mr. Murphy—This power of attorney that was recorded in the county in which the land was located—what was the effect of that?

A.—Well, the mere effect of recording the patent, which is the foundation of title; the patent was to the Indian—John Smith for instance, and this same power of attorney from John Smith to convey that land and then deeding it to another person, conveyed it out of the hands of the Indian.

Q.—This power of attorney was supposed to be signed, or was signed, either by the attorney of the Indian or by the Indian himself—the half-breed, was it not?

A.—The power of attorney was supposed to be signed by the half-breed, of course, in person.

Q.—Do you know of any cases coming within your knowledge in which other parties in this State have signed those powers of attorney?

A.—Well, the powers of attorney were signed by what purported to be the Indian himself, but were not; in fact, some had been dead and buried long before that, and before the date of the signature.

Q.—Can you give any particular instance in which the power of attorney purported to be signed by an Indian, when in fact it was not so, and the Indian was dead?

A.—The fact of Henry Millor is one that I take that I have evidence perfect against him. He was hung in Dacotah, Minnesota, in eighteen hundred and sixty-two; December, eighteen hundred and sixty-two. He was a Sioux half-breed, and was engaged in the Indian outbreak in eighteen hundred and sixty-two, in Minnesota. He was caught and tried by a Court-martial, and sentenced, and, by special order of President Lincoln, he was hung in Mendota, in eighteen hundred and sixty-two. His scrip was located here in eighteen hundred and sixty-seven.

Q.—Do you know where that scrip was located?

A.—One piece of scrip was located in the Carson City Land Office, I think, in eighteen hundred and sixty-four—not previous to that date, at any rate. Another piece was located here in eighteen hundred and sixty-seven.

Q.—In the San Francisco Land Office?

A.—In the San Francisco Land Office. The application located was signed by Henry Millor, in person. Sometimes, instead of showing the

power of attorney to locate, why, the Indian himself signed the application. This was one where the Indian had signed himself.

Q.—Do you recollect the date of signing the application—what time it was supposed to be?

A.—Well, I would not be sure about the date—some time in eighteen hundred and sixty-seven.

Q.—It was after the death of this Indian, was it?

Mr. Higbie—Is it in this book?

A.—Yes, sir; it is in that. Then I have received affidavits from these parties that they have never known Mr. Chapman, and never heard of him.

Q.—Well, is this true—this part of your testimony? I have said that land was conveyed after the death of the half-breed. I will cite the case of Henry Millor, a Sioux half-breed, to whom was issued Scrip Number Five Hundred and Sixteen. The location of Five Hundred and Sixteen "B" was made in the Carson City Land Office, under date of March first, eighteen hundred and sixty-four, and the application to locate was signed, or supposed to be signed, by Henry Millor, in person. He applied for the northeast quarter section twenty-one, township sixteen north, range nineteen east. This location was canceled by order of the Commissioner, under date of June twenty-second, eighteen hundred and sixty-five, and the scrip was returned to Chapman. This scrip was floated from Nevada to California, and was located in the San Francisco Land Office (Register's and Receiver's Number One Hundred and Forty-three), upon the northeast quarter of east quarter of section one, township seventeen north, range eighteen west, Mount Diablo meridian. Such location was made upon the twentieth of May, eighteen hundred and sixty-seven, and the application to locate was again signed, or purported to be signed, by the said Henry Millor, in person. Such land was patented to the said Henry Millor by the United States, under date June second, eighteen hundred and sixty-eight, and such patent was recorded in Mendocino County, in this State, on the third day of October, eighteen hundred and sixty-eight, in Volume Two of Patents, pages one hundred and thirty-three and one hundred and thirty-four. To dispose of this land the said Wm. A. Chapman placed upon record in the said Mendocino County, a power of attorney, purporting to be executed by the said Henry Millor, appointing him (the said Chapman), attorney to sell and convey the lands located with the said scrip. This power of attorney was made irrevocable, and was coupled with the consideration of three thousand dollars. Such power of attorney was recorded in Mendocino County, California, on the third day of April, eighteen hundred and sixty-nine, at the request of William S. Chapman, in Volume One of Powers of Attorney, pages three hundred and twenty-five, three hundred and twenty-six, and three hundred and twenty-seven. I will simply state, that the said Henry Millor was tried, convicted, and executed, and was hung at Mendota, State of Minnesota, on the twenty-sixth day of December, eighteen hundred and sixty-two, by special order of Abraham Lincoln, then President of the United States, for murder. Is that correct—that statement?

A.—Yes, sir.

Mr. Higbie—You have satisfactory evidence to your own mind that this is the veritable Indian that was hung, whose power of attorney appears to be here?

A.—Yes, sir; I have thirty different persons in Minnesota to swear to

it, and a copy of the paper giving an account of the execution, and the Indians executed; there were thirty-eight in all.

Mr. Klotz—Might there not have been an Indian of the same name there?

A.—No, sir; it was the same one; I looked that up, particularly.

Q.—Hung, buried, and then came to life?

A.—Well, the records show, at least, that he signed.

Mr. Murphy—How long since you left the office of Mr. Chapman?

A.—I went there in January, eighteen hundred and seventy.

Q.—January, eighteen hundred and seventy. Up to that time do you know how much land he acquired in this State, legitimately or otherwise?

A.—About how much?

Q.—No; a rough estimate.

A.—Well, his locations amounted to about one million and a quarter of acres. He had applied for about one million and a quarter more, but had not obtained that.

Q.—Do you think he had located in this Sioux scrip a million and a quarter of acres?

A.—Not under the Sioux scrip.

Q.—About how much, under that Sioux scrip, do you think he located?

A.—All told, within the State, I should judge not very—well, not exceeding thirty thousand acres. Most of his locations were made in Agricultural College scrip, and in cash.

Q.—You think there was about thirty thousand acres of this was Sioux Half breed scrip?

A.—Yes, sir. You see he valued that Sioux scrip at five dollars an acre, because it was locatable upon unsurveyed lands. He could locate it as against preëmption settlers, and his facilities for obtaining patents were such that he could get them before a settler had a chance to know where he stood; before he even had a chance to open his mouth in the local Land Office.

Q.—Do you know of any other instances in which Mr. Chapman has used the names of Indians fraudulently; used them to procure the location of lands?

A.—Well, I have an affidavit from Augustine Frenier, another half-breed, that he never gave any such power of attorney.

Q.—Did Mr. Chapman have a power of attorney purporting to be one from this party?

A.—Yes, sir; and located and conveyed the land. He was a Government scout in Dakotah; employed by the Government for a number of years. I tried to get hold of some books and papers, but I could not do it yesterday. By them I could answer questions more readily, I suppose; what I had taken from the Government records in Washington, or in Carson City, or here, or in different counties in Minnesota.

Mr. Meyers—Was all this scrip genuine?

A.—The Sioux scrip was genuine.

Q.—It was only the powers of attorney that were forged, then—in a number of instances, generally?

A.—Yes, sir; the powers of attorney; though I saw—I have seen a batch of one hundred powers of attorney that came on, all filled up, except the signature.

Mr. Higbie—How is that?

A.—I have seen a batch of one hundred powers of attorney that came on all filled up, except the signature, acknowledged.

Mr. Murphy—Acknowledged in Minnesota, before they came here?

A.—Yes, sir. He has tried to cover up some of his tracks by employing men in Minnesota to go and procure genuine powers of attorney from these Indians, by paying them a small bonus; but the men he employed acted the same way he did. They did not go to the Indians, in fact.

Mr. Higbie—Well, did he use those powers of attorney after they came here; that is, acknowledged, with no name to them?

A.—Yes, sir. He filled them up.

Q.—He filled them up?

A.—Yes, sir.

Q.—And put some signatures to them?

A.—Why, I have, in sending papers up for record; here, says I: "Mr. Chapman, the Indian forgot to sign his name, and that paper will have to go back to Minnesota." He says: "That is all right;" he took the paper in the next room, and he would bring it out to me in three minutes, signed.

Mr. Murphy—Probably he had spiritual communication with him?

A.—I don't know.

Mr. Higbie—How many, to the best of your knowledge and belief, were thus filled out?

A.—Well, I might say there were fifty of them, I suppose. I know at one time he wanted ten thousand dollars, and he was very lively, and he asked me to sign, but I told him that I would not put a pencil mark to any of them.

Q.—What do you say in connection with the ten thousand dollars?

A.—I say he wanted ten thousand dollars; and he signed a great many of them to make a payment; or to receive the ten thousand dollars to make a payment to another party.

Mr. Murphy—Have you ever heard Chapman say that he ran the United States Surveyor General's Office?

A.—No, sir; that was the trouble; that he could not run it, that was why he was opposing Day; Day was Surveyor General when I left his office. He often declared that he was going to run it; and one of the first objections that he made was against the clerk. He brought all his influence to bear so that Conroy was removed.

Q.—Do you know then of your own knowledge that some of these powers of attorney, from the half-breeds, were executed and acknowledged after the death of those half-breeds?

A.—They were executed—that is, they were signed after, and whether the acknowledgment was after or before I do not know, except in one or two cases.

Q.—Some of those powers of attorney were acknowledged before Chapman himself, were they not, as Notary Public in Minnesota?

A.—Yes, sir.

Q.—How were they signed, with a cross or in the handwriting of the Indian?

A.—Well, most of them were signed with a cross. Some of them—there were two witnesses required; though I have seen some that were in no other handwriting but that of William S. Chapman; all signed with a cross; the Indians signing and the witnesses signing with a cross.

Mr. Meyers—You stated that you knew of a batch of a hundred un-

signed powers of attorney coming at a time. Did that occur more than once?

A.—Oh, there was a large number in the office there laying around. There were a great many of these powers of attorney brought out from Minnesota with Chapman, made before he came out, with the idea that he would locate the scrip and sell the land, and make a short transaction of it and get back. That was the idea of locating in Nevada. But he was taken aback, because the Department at Washington, they ruled that the scrip was not locatable outside of the State of Minnesota, and it was quite awhile before he had that decision reversed, and then he located scrip in this State; and there was so many different things that he could not make a title to all of them. There was a great deal of this scrip that was issued to minors, who had to become of age before the power of attorney, of course, was legal—a great many of them—although he did not stop at that. He would take the power of attorney from a minor, of course, and sell the land under it. Of course you could not tell whether the man was five years old or fifty years old, unless you went to Minnesota to find out.

Mr. Meyers—He had powers of attorney from minors, and used them before they were of age?

A.—Oh, yes, sir.

Mr. Klotz—In entering that land that way, did he take land away from actual settlers often?

A.—Well, he very seldom put a piece of that scrip upon land that was not settled upon. He would not stop at anything. The scrip itself was not locatable upon land that was not proved; yet a piece of scrip was put on the Geysers Spring and a patent obtained for it. It is when the maps were drawn in the office.

Q.—Four or five settlers were on the land?

A.—Yes, sir. In the Carson City Land Office, out of all his locations, out of the twenty thousand acres, there were one hundred and seventy odd conflicts with preëmtors—homestead settlers. That I took from the Government records there.

Q.—Have you got about through your statement, Mr. Allee?

A.—Well, I don't know what there is more.

Q.—You have gone over about the same ground that there is in the affidavit?

A.—I do not know; I suppose so.

Q.—You have stated, I believe, in relation to those powers of attorney, in regard to signing their names, after Mr. Chapman had requested you to take a hand in those transactions, did you not?

A.—Yes, sir.

Q.—You stated, also, that you refused to do so?

A.—Yes, sir.

Q.—You considered at that time that they were fraudulent and illegal, and a fraud upon the people—the transactions that you had reference to?

A.—Yes, sir; I knew it right after I went into his office. I could not help seeing many things, and I would not have anything to do with them myself; but I was placed in that position—I was a clerk for him; I could not very well come out and say anything against him, and I refused to do it—to implicate myself.

TESTIMONY OF W. H. L. BARNES.

W. H. L. BARNES, called, sworn, and examined:

Mr. Murphy—You are an attorney and counselor at law, I believe?

Answer—Yes, sir.

Question—In the City and County of San Francisco?

A.—Yes, sir.

Q.—Do you know anything, of your own knowledge, in relation to any frauds being perpetrated in the location of lands in this State?

A.—No, sir.

Q.—You have been the attorney for parties in acquiring lands?

A.—No, sir.

Mr. Higbie—Have you ever had any connection with Mr. Chapman in land dealings—land matters?

A.—No, sir.

Q.—You know nothing in regard to any scrip that he possessed of any sort in the securing of lands in this State—either swamp, or college, or Sioux scrip, or any other?

A.—I know nothing of any swamp, college, or Sioux scrip that he has.

Q.—Whether you have had such relations with Mr. Chapman as to be acquainted with the fact as to whether he ever had any Sioux scrip, or Agricultural College scrip, or any other scrip by which he obtained land from the State?

A.—I know of no matter such as is inquired of, but I did know of a claim against Mr. Chapman, upon a promissory note, consideration of which, as I understood, was Sioux scrip, and which Mr. Chapman declined to pay, on the ground that that Sioux scrip was worthless, under some determination or ruling of the Land Office at Washington; but that note and those transactions had, as I am informed and believe, nothing whatever to do with the public lands, or other lands in the State of California.

Q.—Did you ever see that scrip, or know of its character, or by what means he came into possession of it?

A.—I never saw the scrip; I have heard from Mr. Chapman—both personally and by having read letters which he wrote—what his view of the transaction was. Whether I have that correspondence in my possession now or not, I'm unable to say.

Q.—Well, if you please, what was his statement in regard to the entry of the scrip, and where and by what means did he secure it?

A.—I am unable to recollect. I have only a general impression, at this time. In point of fact, a note given by Mr. Chapman for several thousand dollars, was sent out to me for collection; upon which note a small payment had been made upon account. It came to the London and San Francisco Bank for collection, from the holder, who resided, I believe, in Washington, District of Columbia. As the attorney for the bank, Mr. Latham, the Manager, turned the note over to me. I had some correspondence with Mr. Chapman about it—the details of which I cannot remember; the result, however, being that Mr. Chapman refused to pay the note, on the ground of the total failure of consideration. Anything else that I could state would be mere impression.

Q.—Did he state to you what was the reason that that scrip was not honored at Washington?

A.—No, sir; no reason, only the fact that it was worthless.

Q.—What scrip was that?

A.—My present recollection is, that it was what is known as Sioux scrip—that is, scrip that was issued for lands that had been awarded to the Sioux nation.

Mr. Murphy—Lake Pepin Reserve?

A.—Whatever it was, there was only one batch of it, I believe.

Q.—You know nothing, of your own knowledge, concerning the lands in the State of California?

A.—No, sir; but this didn't relate, as I recollect, to lands in California. I don't know as any attempt was ever made to locate that scrip here. I think it related to one of his transactions in one of the far Western States—that is, on the other side of the Rocky Mountains, in which, it was claimed that somebody connected with Chapman was interested with Chapman in it; at all events, the nature of defense proposed to be set up by Mr. Chapman was such that the parties never thought it worth while to proceed any further with the transaction.

Q.—Have you any information that will throw any light, by any of the frauds which were perpetrated or supposed to be perpetrated in the location of lands in this State, that would be valuable to the people, or to this committee?

A.—I have never had anything to do with the land business, so-called. I had in the whole course of my experience here but two cases in the Land Office, or in relation to land, and those were simply private conflicts, in which both parties had, or claimed to have, rights, and I think there could be nothing in those which would tend to throw any light on the matter. I know of nothing wrong, either on the part of either party or in the office, in either respect.

Mr. Meyers—You have had no information about land matters, so as to give you any knowledge of the method and means by which abuses are perpetrated?

A.—No, sir; none whatever. I only know of one case which I had anything to do with, which was a hard case, and that was a simple case of private wrong. I don't know that anybody is interested in that.

Mr. Meyers—We want to know how the law is defective; how it operates on ways and means of abuses?

A.—I think I may make a suggestion to you, founded upon a practical experience in one of the cases I spoke of. The Act of eighteen hundred and sixty-eight, relative to the disposition of lands acquired by the State from the General Government, provided in section fifty-two, I think, that an applicant for lands, either any part of any sixteenth or thirty-sixth sections, or lieu lands, should make an application to the Land Office here for them, stating certain things; that is to say, the State required him to state that he was a citizen, that he desired to purchase the lands, specifically describing them, that he had not entered any other lands which together with that quantity stated in this application would exceed three hundred and twenty acres, I think, and the names of the occupants of the land that he sought to acquire, if any, or that there was no occupation adverse to that which he himself sought to have ripen into a title under the United States laws. Of course the object of that was, that any person in possession of public lands should be duly notified of the intention of some party to come and claim it, that he might either protect himself, or come in Court and defend his prior possession. I knew of one case in which an application was filed by Captain John Hulf for lands under the agricultural grant, under the

Act of Congress of eighteen hundred and thirty-four, and which Act excepted from the operation of that school grant all lands upon which there was any known mines, or salines, and in these lines the word was subsequently construed by Congress to include a coal bed or coal field, and all that class of property was especially exempted from location or pre-emption, and the State could not acquire any title to any such known lands, that title being reserved to the General Government. Captain Hulf made an application under that Act for the lands upon which the Black Diamond Coal Mining Company, over here in Contra Costa County, had been engaged in mining, and upon which they had extensive and valuable improvements for certainly ten years before he made his application; every essential fact was struck out, every form that was required by law to be made not omitted, but struck out, lined out. His application was approved, however, and it went on and finally ripened into a patent without their knowing anything about it whatever, and then in eighteen hundred and seventy, somebody got an Act through the Legislature, which provided that all applications for State lands before made, should be deemed to be and held valid and good, notwithstanding that they had not complied with the law of eighteen hundred and sixty-eight, either in its form or substance; so that a man might have filed an application in the Land Office previously to eighteen hundred and seventy, which was absolutely void for all intents and purposes. He would, however, elaim the location on the very plea that he did not know that there was any such claim pending. All that was necessary, was for him simply to state, that he wanted to purchase your farm, and, by the Act of eighteen hundred and seventy, that made a valid and perfect objection, just as though he had done it as he should have done. That law was passed just to cover that class of cases. They got a patent for that from the State upon paying the one dollar and a quarter an acre; whereas, according to the Act of Congress, that land was exempted, and should have only been sold for twenty dollars an acre. The patentee brought an action against the Black Diamond Coal Mining Company for the possession of that land, and for damages for the amount of coal that they had taken out of it, and that case is now before the Supreme Court on that kind of a job, on which they expected to recover all the way from three hundred and fifty thousand dollars up to a million, for what these miners had taken out of the soil. Well, you are all aware how fully the law and policy of the State has protected miners upon public lands; they have been encouraged upon them with every kind of protection that the law throws about other property. He can maintain an action of trespass against anybody that comes upon his land or encroaches upon his work; he may leave it for a year, rent, or make a sale of it, and has all the rights pertaining to other property; yet, according to the theory now prevailing with reference to this, a man who takes up a location on land upon which a miner has been to work, either placer mining or quartz mining, may, when he gets his property, sue him for whatever he took out of the land prior to the time he got his title, or any other time; and it seems to me that that Act of eighteen hundred and seventy was wrong, because it sought to cure not only accidental omissions and defects in form in the statement, but defects in substance. A man might put in under that law—might have put in—before the Land Register or Receiver here, a washerwoman's bill, or an invitation to dinner, or any kind of paper, and call it an application

to purchase land, in which he described not the land nor kind of land, but the color of his hair and number of his teeth, and by the Act of eighteen hundred and seventy, it was made just as valid as though everything had been done in compliance with the law. It was a trick passed through there without much observation, and it has been the means of curing and patching up speculating operations upon land upon which other men were in possession. I believe that there ought to be some legislation on that subject. I believe that that law of 'seventy ought to be repealed. It has answered no good purpose, and the requests of the State are so simple, and the fees in the Register's office so small, that there was no excuse for it. It was a mistake, and it was simply passed to make a title where none existed, as against men in the bona fide possession of land. And I believe there is another great trouble in this State that ought to be remedied by legislation. I believe it is a thing that keeps back population, and retards the interests of the State, and it is allowing men to get into their hands enormous great tracts of the public lands, which they buy for one dollar and twenty-five cents an acre, and locate with Agricultural College scrip, Sioux scrip, or anything of that kind, and when an honest emigrant comes here he has got to pay them ten, fifteen, twenty, or twenty-five dollars for land that cost them one dollar and twenty-five cents. I believe that is the curse of this State to-day, so far as our settlers are concerned, and if there could be any measures that would reach that business it would be a great thing for the State. It ought to be done, and should have been done long ago, because I don't believe that the public lands of this State should be gobbled up in that manner. I don't believe that four or five men should take up nine tenths of the San Joaquin Valley, or any of our valleys, or of these great tracts of arable lands, and absorb them and compel the actual settler to pay a tax to them for the land. I think it is hardly essential for those who buy them to pay this amount. It is unfair to make the farmer, and stockman, and agriculturist pay fifteen, or twenty, or fifty dollars an acre for what these speculators only gave the Government one dollar and twenty-five cents.

Mr. Higbie—No doubt it is wrong, but what we are after is, find out where the defect is.

A.—I think the main fault is in the law itself. It is in the law which allows it to be done. There is another defect, but I have never had anything to do with them whatever, when frauds are said to have been committed. For instance, in the contest between William S. Chapman and Hardenbergh, with relation to those matters, I have no knowledge or information whatever. In common with a great many others, I am inclined to believe, however, that there is a very large nigger in the fence; but I know nothing about it, as it is entirely out of my line of business.

TESTIMONY OF DANIEL ALLEE—(RESUMED).

Mr. Klotz—Have you any books or papers that would give us any information on this Chapman matter?

A.—Well, I have some books and papers, but they only substantiate what I have stated here, and, as I understand you want to get into the whole business of land monopoly, from end to end, and in the first place

there are Spanish grants, but I have never had very much to do with those. I suppose outside of Spanish grants, there is more land taken up with Agricultural College scrip than is paid for with cash, and in the San Joaquin Valley, when the first excitement commenced—in the San Joaquin and other valleys, this College scrip first came into the market. It was the scrip that was issued. Every State—the thirteen original States had no land in—and in place of taking up the land, the scrip was issued at the rate of thirty thousand acres to every Representative in Congress—Senators and Representatives. New York State, for instance, got a million of acres. That had to be located in other States. Well, there was such a large amount of that scrip put upon the market that the price fell. It was selling at sixty cents an acre in currency, which is about the same as twenty cents an acre.

Q.—Was that when currency went down to fifty cents; scrip then would be only thirty cents in gold?

A.—Currency was fifty, and scrip was selling at sixty cents in currency.

Q.—That would be thirty in gold?

A.—Yes, sir; thirty in gold. Well, parties went up the San Joaquin, Chapman at the head, but they didn't have much money; but they agreed with the Land Office, and they took up about four hundred thousand acres of land.

Mr. Higbie—In which Land Office; Visalia, or Stockton?

A.—Stockton; and they located all the land that they thought was worth anything, and it was held by them months and months afterwards. As they were sold to any party, they used the principal in buying more scrip.

Q.—What scrip was that?

A.—Agricultural College.

Mr. Klotz—Could you locate that scrip on any land?

A.—Any land that was subject to private entry. Most all of the land at that time was subject to private entry.

Q.—It had been in the market and was offered for sale?

A.—Yes, sir.

Mr. Meyers—What do you know of the method that was resorted to to prevent settlers from locating those lands?

A.—Well, they claimed the lands as belonging to themselves.

Q.—Did they make entries upon books in the Land Office, so and so taken by Chapman, when such was not the fact, to prevent others from taking it?

A.—Well, they put their initials upon Government plats, and a party calling and wishing to purchase a thousand acres—calling at the Land Office—would be told that the land belonged to W. S. Chapman. It was done to such an extent that persons, after coming there from below, that they wouldn't think of going to the Land Office to ask. They thought that Chapman owned the whole thing. At least, I have seen parties coming from San Francisco, wishing to purchase a section of land, and I have asked them what section it was, and turned to it on the map, and they told me. I have telegraphed to Stockton, and found it was vacant; it was not applied for by anybody, and got the answer; and in the afternoon it belonged to him. I would send the money up in the afternoon, and got the deed in the afternoon; and the major portion of lands was held in that way at the Land Office. I worked all one day and all one night making out applications for a couple of large tracts of land—applications to locate this College scrip. They were applications to

cover three hundred thousand acres of it. When a person came into the office, well, he would be told to apply for such and such land, and would find that it belonged to William S. Chapman; there was his name in pencil; that was sufficient for ninety-nine persons in one hundred; they would not know any better. Suppose a person like myself; I go there, and know the rules of the office; I see it is in pencil, and remark it; I tell the Register, the law requires you to put it in ink. Well, he would say, our business is such, we are rushed so, that we have not had time. I could not, very well, say anything to that, and it would be entered up in a couple of days. I go back there again in a couple of days, and keep at them, and they would have to enter it. When they once make the entry in their books, then it would be perfectly right; but there would not be one person in a thousand that would know enough to follow them up that way. Well, in case of a person that came to the office and didn't hardly believe the Register. To meet his case, I leave about six thousand acres of this scrip there, which would cover about fifty thousand acres; they would be shown the applications, which were already made out to locate the land, and this batch of scrip of about six, five or six, thousand acres. By that means everybody was compelled to buy from Chapman; to come right down and buy from him. Now that is a matter upon which I think the State ought to take in hand now, and see what they can do to prevent them from acquiring such large tracts fraudulently in the future; and in the last five or six years the tendency has been to prevent speculators from acquiring large tracts. They now resort to the method of reclaiming land, swamp land. For instance, I make an application in Sacramento to apply for such and such land as swamp land. My application goes on to Washington, and they attend to it there. We get an order for its resurvey. It has been surveyed by the Government already, and turned in as dry land. An order for a resurvey and everything, depends then on the United States deputy that goes there. He goes into the field and declares it swamp land. Why, the way they have everything arranged is, the land is listed over to the State as swamp land, by the General Government; the application is made in Sacramento, and it is hurried through, and a patent is obtained for it there; and if a patent is not obtained for it, the application is good enough itself. It is the cheapest way to get hold of lands. The State only charges a dollar and a quarter an acre for it, and a person has only to pay twenty per cent, and the balance on time; so it will cost very little money to get possession of one hundred thousand acres; and, in fact, the smartest ones we have got don't propose to pay anything for three or four years.

Mr. Meyers—How do they do that?

Q.—Well, by connivance with different persons.

Mr. Higbie—Was this swamp land ever surveyed by the State Surveyor?

A.—Yes, sir; it is supposed to be surveyed by the State Surveyor; but they don't go to any expense until they want it, and have concluded to pay for it and take it.

Mr. Meyers—The method, then, is to enter this land, and by connivance with other parties, they hold it, and only pay for it as they sell it?

A.—Yes, sir. An application is generally considered *prima facie* evidence of title.

Mr. Chandler—Is there not a certain length of time allowed in which they have to pay this twenty per cent in?

A.—Yes, sir; they have that privilege. If not approved for twenty years, they don't have to pay anything.

Q.—But they hold possession of it?

A.—The application is good.

Mr. Higbie—Well, what is the process, if you know, in the second survey? In the first, it was declared not swamp land; and the next, it was declared to be swamp land. Where is the difficulty or how is this secured by being declared not swamp land in the first and swamp land in the second instance? Before it was dry land in the first instance.

A.—By a resurvey in the United States Surveyor General's office.

Q.—Then it is merely a difference of opinion as to what is swamp land, or whether there is some evidence in the matter; or is it made swamp land merely to get possession of the land?

A.—It is to get possession of the land; that was the whole matter of the fight between Chapman and the Surveyor General, Hardenbergh. It was this Sierra Valley which was applied for as swamp land, and a resurvey ordered; I understand that Mr. Chapman could not get his deputy surveyor appointed to survey it. There is large quantities of land that is taken up as swamp land that is not swamp land; and that thing will be carried on more than it is unless it is stopped. Sargent's bill, in Congress, would stop it, but it lets the land speculators out and lets the railroad in. That is something I don't know about, but it would stop it so far as the land speculators were concerned. That is where we want to make the law so as to leave them both out. No law ought to be passed by which an application for swamp land should not reach over a certain amount of acres, the same as in school lands; although in school lands they drive around the law; it puts them to a little more expense. There is another thing: when the stakes are set, the land is surveyed.

Mr. Higbie—Well, don't you apprehend that much of this trouble arises from the misstatements or falsities of surveys made by these deputies?

A.—Well, my knowledge, so far as it goes, is that a great many deputy surveyors have misstated facts and made missurveys. Chapman's right-hand man in surveying was his brother, Isaac N. Chapman. If you let him survey the piece of land, Chapman would know the whole character of it; Chapman would have the rough maps, and the run of the streams, and the character of the land—whether timber or farming, first, second, or third grade land—long before the United States Surveyor General would know about it. If it was a school section wanted, why, he would know the hour the stake was set; although the communication might take two days and a half to Chapman's office, yet he would be informed that at nine o'clock the last corner stakes would be set on such and such a piece of land, and the stakes would be set there at that time.

Q.—Is Chapman, in your opinion, one of the largest land owners of the State.

A.—He has located more land than any one in the State has located. You can't tell by looking at the records; you can't tell anything about it, because I suppose he has located in the names of a thousand different persons—joint locations with forty or fifty different persons, and he used to send down to the What Cheer House and get them.

Mr. Higbie—They were dummies?

A.—Yes, sir; dummies. By paying a dollar a head, they would sign an iron-clad affidavit that they were not locating for anybody else, and

then either directly or indirectly, turn right around and sign it off. In fact, it didn't interest them what they signed or what they didn't sign, so long as they got their money.

Mr. Meyers—In locating this Sioux scrip, which was allowed to be located on unsurveyed lands, was it common to locate on lands that were improved, for blackmailing purposes?

A.—Yes, sir.

Mr. Murphy—Do you know any particular instance of blackmailing?

A.—Well, I know of instances where scrip was located; most of the scrip was located previous to my entering the office; the scrip was located on the Geyser Springs—some of this half-breed scrip, I don't remember now, I won't be positive whether it is Chippewa or Sioux. It is located in the Town of San Juan. There is a lot located up in Carson City, and there is scrip located down in Santa Cruz County on settlers, and they would not even have a chance to come into the local Land Office before the patents would be issued and the maps would be drawn. The conflicts in the Land Office themselves show where he has come in controversy with the settlers. I stated that in the Carson City Land Office, out of less than two hundred locations, there were one hundred and seventy conflicts with the preëmptors or homestead settlers.

Mr. Meyers—Did it give him this advantage over the ordinary settlers that he could, with comparatively little expense, make it cost them more than the land was worth?

A.—It was very easy for the Government to protect the Indians. They wouldn't even allow the Registrar to charge any fees for locating it. They didn't have any fees to pay for locating. A piece of scrip was put on a settler, the settler would have to come to the city and bring his witnesses, and that at a cost to himself. He would have to pay his witnesses what the labor was worth, and pay their fares to the city and back, their board while here, and employ lawyers here, and then the chances were nineteen out of twenty, that when the case was all finished here, the farmer, whose witnesses had went back, on some ground or other the case would be reopened, and he would have to bring his witnesses back again. Perhaps it would take him the busiest portion of the year—during harvesting. The farmer would beat Chapman before the local Land Office, and Chapman would appeal to Washington—to the Commissioner of the General Land Office. The farmer would have to employ his attorneys in Washington, and pay them well. The Commissioner, in the General Land Office, would decide against him, and an appeal would be taken to the Secretary of the Interior. Perhaps the case would be sent back here for more testimony, and the consequence was, that if the poor fellow had two or three thousand dollars outside of his farm, he would have to give it up, as one of the sinews of war. That was one of the *modus operandi*.

Mr. Meyers—Then Mr. Chapman, I presume, at the same time was at comparatively little expense?

A.—Well, he employed his attorney here at so much a year, so much a month.

Q.—Was not that the same at Washington?

A.—He employed them at so much a case. It was very little cost to him compared to what it would be to the farmer. There was a case in San Mateo County, to show you what charges he had—that case cost him two hundred dollars—a law suit with a man owning sixty-six acres which he wanted. He told me he had an offer for that land for twenty thousand dollars. Shortly afterwards the tax became due and I

sent to Redwood City the amount. The land was taxed at nine hundred dollars, and he paid taxes on it, and I have got the figures. That just shows the amount, that it was improved land, and very likely he would have to pay ten or twenty times that amount. The same way with the lands in the San Joaquin. They lay vacant. They are taxed at a dollar or a dollar and twenty-five cents an acre. The farmer goes on there and improves and makes them valuable, and adds to the wealth of the country a thousand times by his labor. He is taxed very likely three times the amount on the land that he would be if he had not improved it at all.

Mr. Higbie—Do you know anything about his locations of lieu lands?

A.—Yes, sir; his lieu lands were located the same as school lands. Previous to eighteen hundred and sixty-eight, the law wouldn't allow a location of over three hundred and twenty acres to an individual; they were classed then the same as school lands are at present. Well, I and a number of persons who were detailed, went down and located this land in tracts of three hundred and twenty acres each, and deeded it over. After eighteen hundred and sixty-eight, that law was repealed, and that allowed any person to come in and take any quantity of land. This law ought to be repealed again.

Q.—Do you know how he knew where to locate this land? Who was the Land Locator General for lieu lands for this period of time?

A.—He used to locate them himself. I have located some.

Q.—Where? For instance, school land, sixteenth and thirty-sixth sections, you see, in a certain survey, proved to be in a ranch; then they selected some other lands in lieu of that somewhere else?

A.—Yes, sir.

Q.—And parties were selected to make the location in lieu of the land used there?

A.—Oh, they generally made the location as any other land.

Q.—Who made the location?

A.—For the State?

Q.—Yes, sir.

A.—Who attended to it in Washington?

Q.—No; here.

A.—Colonel Ransom, up to eighteen hundred and sixty-eight.

Q.—How did Chapman know where these locations were made?

A.—The maps are always kept in their own office there. Most of the lieu lands owned by Chapman were timber lands, and the surveys were made by Isaac N. Chapman, Mr. Chapman's brother.

Q.—Are you acquainted with the locations of this Agricultural College scrip, issued to the State of California?

A.—Called University scrip, to distinguish it from the other?

Q.—Yes, sir.

A.—No, sir; that has been located after I left. I have heard a great deal about it; but I know nothing of my own knowledge.

Mr. Meyers—Was there any Chippewa scrip located in this State?

A.—Yes, sir; there was a number of acres of it.

Q.—In what respect does that differ from the Sioux?

A.—It is not locatable upon unsurveyed land. But there was not a single solitary acre of that scrip located in this State that was not fraudulent.

Q.—There was not?

A.—No, sir.

Mr. Higbie—How much of that was located, about?

A.—Well, I think about thirty thousand acres.

Mr. Klotz—It was generally located on unsurveyed lands?

A.—It was locatable upon lands that were not subject to private entry; they were attached prior to the survey. A good deal of it was located in San Joaquin, and a good deal of it what is known as the — Ranch, and some is located down at San José, and located on the timber lands there, all of which is valuable; and so far as that goes, he would not locate any land unless it was worth five dollars an acre.

Q.—Do you mean that the scrip itself was fraudulent, or the mode of applying it?

A.—The scrip itself. The Department at Washington had an investigation at Minnesota, and came to that conclusion, and all that was not patented through this State they canceled.

Mr. Higbie—Do you know of any other thing where there has been fraudulent transactions, either of your own personal knowledge, or know of any one from whom we could get such information as to the fraudulency of any of these locations, either of school land, or swamp land, or scrip?

A.—I don't know, unless you want to subpoena William S. Chapman; he could tell you more than anybody else, or George M. Nice, his lawyer.

Mr. Meyers—Is there any other Indian scrip located in this State, except the Chippewa and the Sioux.

A.—Not to my knowledge.

Mr. Chandler—Is there any quantity of that scrip to be located yet; or is it all used up?

A.—Well, there is some, but he don't touch it now. He won't trust it. He sent what scrip he had back; not locating it in the Land Office.

Q.—What was the reason of that?

A.—It was fraudulent, and I think he was afraid to trust it out. His manner of signing or forging these powers of attorney was, to cover himself against any criminal prosecution, he would generally date the instrument back three years. It might be; it was very possible, you would get there and prove that the instrument was a forgery, and that the man was dead, and had died a year before it was signed, yet you could not do anything with him criminally. You could not prove that that was executed at that time. It would be dated back three years before, and the burden of proof would be with you to prove that it was not executed at that time.

Mr. Chandler—So far as you know of these transactions, those things are pretty well covered up, are they not; so it would be pretty hard to substantiate any illegalities?

A.—Well, there is a great many persons that have talked of it in Minnesota; but they are farmers. Well, there are about fifteen thousand acres that have been deeded to me by three different Indians, in trust, that the scrip has been used, and they have not got one single cent.

Q.—Scrip been used by Chapman?

A.—Yes, sir; and Chapman has received money for it, for the sale of the land. I went on to Minnesota, and saw a number of them. They had been waiting there for the last nine years, to hear from Chapman, and get what was due them, but they had not got a cent.

Q.—Was this the same land that was deeded to you?

A.—Yes, sir.

Q.—It was deeded by Chapman?

A.—No; by the Indians.

Q.—And you were cheated out of it by Chapman?

A.—No, sir; this was after I left Chapman.

Mr. Meyers—You went back and had a trade with the Indians?

A.—No, sir; I didn't pay them anything for it. I just gave them a deed through an agent I have there, and I sued Chapman and obtained the purchase money that he has obtained for the sale of the land, and will turn it over to them. I just hold it in trust for them.

Mr. Higbie—But that very same land he has sold by these fraudulent powers of attorney?

A.—Yes, sir.

Mr. Klotz—He has already sold it and got the money for it?

A.—Yes, sir.

Mr. Chandler—Have you not seen any way that you could get at it?

A.—Yes, sir; but Chapman has made me an offer, and I wouldn't take it, because it wouldn't amount to a fleabite to what he has obtained for it. I have written on to Wisconsin, but the Indians don't seem to want to take it, and therefore the matter has stood just as it is.

Q.—Did he know that you held a deed in trust for this same land?

A.—Yes, sir; I have put it on record. I have never had anything to say to him either one way or another. My only dispute with Chapman, from which I left his office, was: when I was in his office I had charge of his cash; I could have ruined the man any day; I could sign his checks for thousands and thousands of dollars, and had one hundred and fifty thousand dollars worth of land standing in my name when I left him, which I signed over to him. I could have made forty or fifty thousand out of the transaction of the land. I was going East. I went with Chapman in eighteen hundred and sixty-seven, and he didn't have a dime; I left him in two years, worth a million and a half of money, easy.

Mr. Meyers—You were at Washington once or twice, were you not, while you were with him?

A.—No, sir; not while I was with him—after I left him.

Q.—While you were there I suppose you might have been an agent; do you know as to the methods and manners by which he was able to obtain his patents so readily, and they were honored and title given before those of the ordinary preëmtor or applicant?

A.—Oh, I know that at the time that I was in the office that they were paid for it. They were not allowed to come on the regular routine of office work. I know they were made out of office work, as it was called, you know.

Q.—Are you familiar with the method of procedure there instituted; what is the regular form or order?

A.—Well, they take up locations in one Land Office; for instance, they commence with the State of California. This is what the clerks tell me. They take up, for instance, the San Francisco Land Office, and all locations that are there, that should be patented, they patent; and from there they go to the Stockton Land Office, and make out the patents there in that Land Office; and then go to Visalia; and when they get through with California, they take up some other State. A person might have a location in Kansas which was bona fide, and no conflict with any person whatever; but perhaps he could not get a patent for it—at least, they tell me so—for two or three years, because they wouldn't get around to that Land Office through all that time. Yet, it

was a very easy thing, by paying ten or twenty dollars, to get a patent in a week.

Q.—How was that done?

A.—Well, you would by feeing the clerk for extra work over office hours. Of course, if you expect the clerk to work over office hours, you must pay him.

Q.—He would make out a patent, and slip it into a pile that was being signed?

A.—I am talking about a patent that was perfectly right—nothing wrong with whatever; but then, the patents that were not right—for instance, the patent grant for the Geyser Springs. It is not possible for the clerk to make that mistake; yet that patent was made out by the clerk, and slipped in with a batch of patents that were already examined, marked "Examined;" and the head clerk comes through and signs everything on his desk, and takes the word of the other clerks that it is all right.

Mr. Meyers—When the patents are made out, is there an examining Board to examine them, and are they then signed by another party?

A.—No; I don't think there is a Board; I don't think there is any Board; I think the clerks look over and examine it themselves. At all events, there is the word "Examined," written down in the left hand corner, and when that is written, it is supposed to be all correct.

Here the committee adjourned until one o'clock.

AFTERNOON SESSION.

TESTIMONY OF JAMES W. SHANKLIN.

JAMES W. SHANKLIN, called, sworn, and examined:

The Chairman—State your name, residence, and occupation?

Answer—James W. Shanklin, resident of Oakland, doing business in San Francisco.

Question—What profession are you following?

A.—In this State I am attorney for land claims. I was formerly a Register in the United States Land Office.

Q.—Are you conversant with the *modus operandi* of obtaining lands in this State?

A.—I believe I am, sir; in every city in the United States.

Q.—Have any cases come under your observation where there was any wrong or fraud perpetrated by any applicant in obtaining possession of lands? If so, state what you know in connection with the matter.

A.—I do not know exactly how to answer that question, sir. A great many cases have come under my observation wherein I thought wrong had been done, but as to how and when perpetrated, I could not say. I have devoted my attention more to the correction of such defects than anything else. When I retired from the United States Land Office, a number of men came to me to inquire whether I could possibly correct their State applications. I told them I could, I thought, but not here; I could only do it at Washington; and I commenced upon their business, and went to Washington, at some expense; stayed there some three months, and during that time I corrected State applications that had

been defective for somewhere about sixteen thousand acres, and the parties claiming under the State, they obtained their patents under result of that proceeding. If you desire me to state what that proceeding was, I will do so.

Q.—Well, make a brief statement.

A.—Somewhere about eighteen hundred and sixty a number of selections were made in the Stockton Land Office, and also in the San Francisco Land Office. They were what we call lieu selections; taken as indemnity lands for the sixteenth and thirty-sixth sections, covered by a grant; the Department held, when Mr. Wilson was Commissioner, that the State was not entitled to indemnity for such land, because the United States did not own those grants. In eighteen hundred and sixty-six, what is called the Conness Act was passed, giving the right to select for such; and in eighteen hundred and sixty-nine, I went forward for the purpose of completing the State title of selections so made, and did.

Mr. Higbie—That was lieu land titles?

A.—Yes, sir; lieu land titles. A great deal of confusion had arisen over it, and when I went there and announced the object of my coming to the Commissioner, he said that he was very glad that somebody had come to attend to that matter, and gave me a desk and one of his best clerks to attend to the matter. I sat down and worked in the Department for six weeks, overhauling everything with reference to this district, and I brought away with me copies of the work that I went over, and there are some sixteen thousand acres corrected, under that investigation that I made; and when I came back to this State I found the records of this office were quite different from what they were at Washington, and in writing up to Sacramento, to this State Land Office, about various matters that came under my observation, I found great discrepancies there, between the United States books and the Sacramento books. Mr. Bost was then State Surveyor General. I spoke to him about it. "Well," said he, "if I can remedy the matter any way, I will do it." I told him that I had brought with me, from Washington, copies of the work I had gone through there, with this work here, and the United States work here, and he told me that I was welcome to go up there and investigate the State books, and he would give me a clerk to work with me, and I did so, and spent some six weeks—over six weeks—in going over the same work that I did at Washington; and two years ago there was another case that came to me in connection with the same swamp land matters. A contest arose between the State selection of eighteen hundred and sixty-one, and adverse claimants under the United States laws. I believe that under the Act of eighteen hundred and sixty-six, the State was entitled to land which she had segregated in eighteen hundred and sixty one, and, as attorney for the parties interested as State claimants in the land, I again went to Washington—went twice—in the Summer of eighteen hundred and seventy-one. The first time I went there, in June, and returned the latter part; I left here the first day of June, and returned here the twenty-eighth day of June, accomplishing all I desired and a satisfactory decision, as I considered it, in support of the State grants to the swamp land segregated in eighteen hundred and sixty-one, was obtained. About three or four weeks after that we were informed that the Commissioner's ruling had been referred up to the Secretary of the Interior upon reference; at the bottom of which was Senator Stewart, of Nevada, against our State, although I do not care about his name being mentioned in connection with that, although it is published in

Washington, not here. I then started again and went to Washington, and remained there some three months, and the result of the second trip was a complete vindication of our claim, before the Secretary of the Interior and the Assistant Attorney General of the District of Columbia, under the Act of eighteen hundred and sixty-one. I am still prosecuting that very matter. It has never been concluded, although it is two years ago; but this is very nearly completed now.

Q.—Well, what was the nature of that difference between the State Surveyor and the United States Surveyor? That is where the flaw was?

A.—Yes, sir.

Q.—Will you please state what corrected that difficulty there?

A.—In eighteen hundred and fifty-nine, the United States passed a law requiring that the Legislature of each State should, within two years after the passage of that Act, designate the manner in which it would make its State selections of swamp and overflowed land. Our Legislature passed a law requiring the County Surveyors to go into the field and make those State segregation surveys in accordance with the United States law, and to take proof in field as to the character of the land, with regard to swamp and overflowed land. That was done, and the line was definitely established, so far as the State could do it under one law. The law required that a copy of that work, in the shape of a map, should be sent to Washington; also, filed in the State Surveyor General's office. A map is on file in the State Surveyor General's office, but the map that was sent to Washington has unaccountably disappeared. It is not in Washington; it is nowhere to be found.

Mr. Meyers—Was it ever sent there?

A.—Yes, sir; it was sent by Wells, Fargo & Co's office.

Mr. Higbie—Did they deliver it?

A.—I cannot say as to that; but they had the information in another way, and that official, too. The county maps that were made were sent from the Sacramento office to the United States Surveyor General's office in this State, and I think this Surveyor General, not knowing what to do with them, and, with the affidavits accompanying them, showing the authorities of the State for making the selections she did of the swamp and overflowed lands, they were all transmitted to Washington, and those were found there in eighteen hundred and seventy-one.

Mr. Meyers—Maps from the different swamp land offices?

A.—Yes, sir—all found in Washington; and when I had the matter investigated at Washington, the decision made in favor of the State, all those maps were sent back to the State Surveyor General for authentication, and with the request that they should be returned to the United States Surveyor General for the basis of his action, and the completion of the State title under the Act of eighteen hundred and sixty-six. That was done, and they are now in the State Surveyor General's office, showing exactly what the State claimed in eighteen hundred and sixty-one. The State has gained everything that she ever asked for under the law of eighteen hundred and sixty-six, excepting one point, so far as sustaining our rights under that law of eighteen hundred and sixty-one is concerned, and that one point is the only one on which there is any difference now between the United States and the State, and I am prosecuting that one point in favor of the State, and I think we shall yet gain it.

The Chairman—Your attorney transactions have been in regard to lieu lands, have they not?

A.—That has been a part. The first I did, was in reference to lieu lands.

Q.—Have you ever had any knowledge of how this Sioux scrip, Half-breed Sioux, or Chippewa scrip, has been laid upon land in this State, and the condition of and the extent of the operation. How many acres?

A.—No, sir; not the extent of it. While I was Receiver in the United States Land Office, in eighteen hundred and sixty-four, Mr. Chapman endeavored to make locations of Sioux scrip there. The Register was Mr. Swift.

Q.—John F. Swift?

A.—John F. Swift, sir, and myself were both of the opinion that it was not locatable in this State, and we objected to its location, giving our reasons for it. The matter went to Washington, and a new set of instructions came out for the office, canceling the former instructions, so far as the points of the objections that we raised were concerned, requiring us to receive the application. We did so. A good many of those applications conflicted with claims of other parties, and in some instances the Sioux scrip applications were canceled or removed, and in other cases the preëmtor's claims were canceled or removed.

Q.—As a general thing, was not the scrip laid upon lands that were actually settled, and occupied by actual settlers? Do you know of your own knowledge?

A.—So far as this district was concerned, I think it was the case. It was only located upon desirable tracts after parties either had entered possession or desired to obtain possession of it, but could not under other laws.

Q.—Do you know anything about the operations of Mr. Chapman in obtaining possession of land by means of this Sioux, Chippewa scrip, or Half-breed scrip?

A.—Most of the time the applications that I have complained of were made by him, his attorney, or by himself, or by his legal adviser, Mr. Gurnee.

Q.—Mr. who?

A.—Gurnee, for Chapman.

Q.—Did you ever notice, very particularly, the signature about powers of attorney?

A.—No, sir, I didn't. Very many applications that were filed in this office here, powers of attorney didn't accompany them; but indorsed upon the bottom of the application was a statement that the original power of attorney was on file in Washington.

Mr. Higbie—You have no means of knowing whether that was a fact or not?

A.—No, sir; I have no means of knowing.

Mr. Meyers—Was a statement of that kind considered sufficient?

A.—It was, sir, because one certificate was not of a character to prove those locations; I don't think Mr. Swift or myself, while we were in the office, have approved one of those applications; we invariably struck out, in the printed form, the approving clause; we simply stated the facts; that those papers had been in for filing, but as for approving the application, I don't think one can be found where Mr. Swift or myself approved them; they simply stated the fact of approving them. I have no recollection of ever approving one of those applications.

Q.—You considered it doubtful, your power to do so?

A.—We did not consider we had sufficient power to do so. In the

first place, we did not think they were applicable to the lands of this State, and only received them because so instructed from above.

Q.—You really believed that that ruling at Washington was in variance with law?

A.—I did, sir.

Q.—Under which the scrip was issued?

A.—Hence, we went no further in the premises than we were obliged as officers to do.

The Chairman—Have you any knowledge of the amount of land Mr. Chapman owns, or pretends to occupy, or claims, in this State, at the present time—the amount of acres?

A.—No, sir.

Q.—Is he not considered, among you gentlemen who are conversant upon that subject, to be the liveliest land operator in the State?

A.—Yes, sir; we generally understand him to be.

Mr. Higbie—How much land, if you know, was located by this Sioux scrip, in the State?

A.—I have no idea, sir; Mr. Chapman's land, however, there was only a small portion obtained through this scrip—a very small portion obtained through Sioux or Chippewa scrip; his land was principally obtained through what we call Agricultural College scrip of other States. The first which came to this State came to me; the man who brought it to me was an officer of the army, and was on his way to Arizona; he was from Pennsylvania, and came to me to buy it in; I knew nothing about it; I told him on that to show me the law and the instructions in regard to it; and he wanted me to take it; and I told him I could not; Mr. Chamberlain and I both talked the matter over, and told him we could not have anything to do with it, as officers; but I told him he had a fortune in his hands, if he remained here and made use of it. He offered it to us for seventy cents, in greenbacks, an acre.

The Chairman—How much did you consider it worth per acre?

A.—It was worth in greenbacks, at that time, its face, in greenbacks—a dollar and a quarter per acre. The next day, Chapman's attorney, Mr. Gurnee, came to me to know what the thing meant, and I showed him the law and instructions; and, well, that man happened to get into Mr. Chapman's hands, and from that, as a beginning, have been built up his land operations.

Mr. Higbie—That College scrip was legitimate?

A.—Legitimate, sir; legitimate; it has been sold by some States as low as forty-five cents on the dollar.

Mr. Meyers—In currency?

A.—Yes, sir.

Mr. Klotz—Chapman sent some to Shasta four years ago, through Wells, Fargo & Co.'s Express. They bought it for one hundred and eighty dollars. It would cost you one hundred dollars in greenbacks, and he would sell it for one hundred and eighty dollars. I think it was Chapman, if I am not mistaken.

A.—Yes, sir; he got it for one hundred and forty, and some of it lower than that; but it is a mistake when people think that Chapman's land fortune has been made by the use of Sioux scrip. It didn't come from that source, at all.

The Chairman—Well, don't you think he has got possession of from thirty to fifty thousand acres of scrip in this State by means of that?

A.—Agricultural College?

Q.—No; Sioux or Chippewa scrip.

A.—I have no knowledge of that.

Mr. Meyers—I never understood that he had more than forty or fifty thousand acres of land from that scrip, but my understanding was always, so far as the San Joaquin Valley was concerned—

A.—I think there was very little Sioux scrip ever located in the San Joaquin Valley.

The Chairman—That has been located up in Lassen, Klamath, Siskiyou, and those counties?

A.—Well, more in Humboldt than any other. He used, in eighteen hundred and sixty-four and eighteen hundred and sixty-five, a good deal in connection with the Gold Hill excitement in Humboldt County; a good deal there on that land then—a good deal of the land that was worthless. He may have got rid of it since.

Q.—We understand you to state that there is no cases that have come under your observation, as an attorney, in land matters, wherein you could point to any particular cases of fraud by any particular individual in this State?

A.—You mean in the acquirement of lands?

Q.—Yes, sir.

A.—I do not know of any. I think there has been a good deal of land acquired that should not have been acquired; but that is the fault of the law. When an individual acquires land in accordance with law, I do not know that he is so much to blame as the law is.

Mr. Meyers—You are connected with these parties; have joined with these parties that have located lieu lands?

A.—Yes, sir.

Q.—Now, have you any idea as to the amount of the locations, or the number of locations that have been made in this State?

A.—I could not approach the quantity at all, sir. I could not approach the amount. I could say, however, that in my opinion, at present, that applications have been made for a much larger amount of land than the State is entitled to indemnity for, as the law now stands.

The Chairman—Can you suggest any remedy for this state of affairs in regard to it?

A.—I think I could, sir.

Q.—Well, we would like to hear, briefly, your suggestions?

A.—In the first place, I should stop the allowance of any new applications, until the applications that the State is honestly and justly entitled to, are approved or perfected.

Mr. Meyers—The proofs have not been had in any regular order, whatever; late applications are just as likely to be approved as those that have been made years ago?

A.—Much more, sir.

Mr. Higbie—Why?

A.—For the reasons that attorneys now employed to obtain new applications, to-day, pay for them; whereas, the old applications were not paid for; and this makes it for their interest to prosecute new cases to a conclusion; whereas, the old ones were allowed to work their passage through.

Mr. Meyers—Now, in connection with the prohibition of any new applications, at least, until those old ones are disposed of, would it be of any benefit, or could it be made of great benefit to the State to have at least some party go there and see that those applications are approved of in their proper order; that is, commencing with the earlier applications, as a matter of justice, I think they should have precedence.

A.—For the last three years you have had a man there whose business it was to do so.

Q.—Well, I have been told by four different parties, who are familiar with land matters, that he always secured the approval of late land matters and paid no attention to other older ones, unless he was feed for it?

A.—Yes, sir; that is about the very way, at least so far as it came under my observation.

Mr. Murphy—Well, do you think if we had a proper representative at Washington, a man the people could trust—do you think it would remedy the evil, to a great extent?

A.—So far as the error is concerned it would, until the applications are stopped.

Q.—That would be the just step, in your opinion, to be taken?

A.—The first step, and there is another mode, in enabling him to do that, which the State is entitled to, and which land men know full well, and which, I presume, your committee or the Legislature don't know, and it has not been brought to public notice. While I was in Washington, two years ago, I stopped in the Department, and I think I could have obtained for the State certain rights, but I found that while I was at work there in the Department, some gentlemen here were anticipating my movements and endeavoring to cut off all opportunity for me to obtain anything for my labor, and I dropped the whole matter. Whenever the State tries to prosecute that matter, I think she will, in my opinion, succeed in obtaining what she has title to. However, I have no hesitation in telling you gentlemen what the proposition is. You recollect that in eighteen hundred and fifty, the swamp land grant was made to this State; in eighteen hundred and fifty-three, the grant for school purposes of the sixteenth and thirty-sixth sections was made, and for an explanation of that grant, it refers to the Act of eighteen hundred —, which covers the sixteenth section alone of the State. Under that first grant I believe that the schools are entitled to every sixteenth and thirty-sixth section in the State or indemnity therefor when they are interfered with.

Mr. Higbie—Everywhere in the State?

A.—Yes, sir, everywhere in the State. Now, the grant of swamp land to the State interferes with that grant, and the School Fund receives no benefit from a sixteenth or a thirty-sixth section covered by swamp land, as it is entitled to, in my opinion, under the law. Oregon and other States, in my opinion, are entitled to it from the peculiar spirit of their laws. Ours is not, under a strict construction of the law as it is, but I believe she is entitled to it fully. Another point: our mineral lands, so far as the sixteenth and thirty-sixth sections are concerned, cannot be surveyed—could not, I mean, under former laws. It can now, under the law of eighteen hundred and sixty-six; but the Commissioner holds that the sixteenth and thirty-sixth sections affected by the mineral claims, the State is not entitled to indemnity for. I think she is either entitled to them as they are or indemnity for them under the law. If the State should receive indemnity for school purposes for those sections and the swamp land sections, it would increase our School Fund at least from one hundred to one hundred and fifty thousand dollars. Your State agent, had he attended to the interests of the State, I think could have obtained the correction of the law or an amendment of the law that would have given that to us, sir. Two years ago I was satisfied that I could have got it without any law, so far as the swamp

sections were concerned, but I didn't fight to stop it because others were blocking it so that I could not receive any benefit for my labor, and I made up my mind not to work any more without some compensation. When I went East, four years ago, I received ample compensation for my labor, and straightened up a good many State selections; when I went twice, two years ago, I didn't do so much. I have received so far, perhaps, a little over five hundred dollars over and above my expenses, while it has straightened up for the State I should think somewhere less than five hundred or six hundred thousand acres.

Q.—Quite a benefit to the State?

A.—Yes, sir; and I got the way they marked them, and the way I was to get my compensation for it was this: In eighteen hundred and seventy, parties came to me to get my opinion about it. I told them if they would raise me one thousand five hundred dollars to pay my expenses, and give me so much an acre for what I obtained, I would take it at these rates: eight or nine dollars. The next year a party came to me, and came to me to see if I would undertake it with him. I went into it; and just a few came in, stating that they would give what we asked, and we were forced into a trial on the subject, and when the legal question was developed, on which I relied for success, why they said, let them go ahead; they have got to go ahead anyhow, and if they win it on that point, we will win anyhow; and the consequence was we received a very small compensation. My opinion was always, that the law of eighteen hundred and sixty-six was to settle all frauds between the State and the United States, and was ample for that purpose, if ever carried out; but it never was carried out until we undertook it as individuals to enforce its prosecution. My impression is, that so far as the description of these lieu lands that I spoke of awhile ago are concerned, that the land is entitled to an ample amount of indemnity to correct them all, whereas now she is paying out every week, refunding to claimants under the State money that she has been using for years, upon outstanding surveys that cannot be corrected. I have in my pocket now a power of attorney to collect some money that way.

Mr. Murphy—Have you any further statement in regard to the mode of correcting the abuses in lieu land or indemnity matters?

A.—Mr. Edgerton introduced two bills relating partly to that, partly to the sixteenth and thirty-sixth sections, and sent me copies of them, and I have sent him my suggestions on the subject. I have his letter in my pocket, and have replied to him.

Q.—Do you favor those bills?

A.—I like the bills very well, sir, provided they were amended. One of them was very sweeping, so sweeping that it would certainly set aside every one, whether right or wrong. Here is Mr. Edgerton's reply to me. [Reads letter.] In reference to the sixteenth and thirty-sixth sections, I see no reason why one affidavit should not be applicable to the selection of all State lands. I don't know why one class should have one kind of an affidavit and another class another affidavit. If it was to protect persons in possession, they should be protected in all cases, whether swamp land or not, lieu land, or under the five hundred thousand acre grant, or any grant. It should be an ample protection to all of them; and it is also necessary for the simplicity of our laws. The law as it now stands, you will find the Surveyor General can give instructions to one under one head, and a different instruction under

another head. There is no necessity for that. They should be simple, direct, and uniform in their application. The difficulty with lieu lands, sir, is this, as it now stands, or has been, that A., B., and C. want a piece of land; D. wants to get it. He applies to an attorney. Well, these attorneys have been or are familiar with the State selections and records; keep copies of them; and they also keep copies of every sixteenth and thirty-sixth section in the State, or in their districts; hence they know the exact condition of every sixteenth and thirty-sixth section in the State, so far as the same are surveyed, and they see the indemnity selection has to be made with a portion of a sixteenth or thirty-sixth section as the basis of the selection. A party going and asking to obtain a piece of land does not know how to obtain it. The attorney says, I will obtain it for you as a new selection, but you will have to give me for it lieu land, which, perhaps, costs from one to three dollars an acre. Now, it is the duty of the Surveyor General to place that knowledge so it can be secured by all, on behalf of the State.

Mr. Meyers—You say anywhere from one to three dollars an acre. That is simply for the information?

A.—For the information the attorney has of every sixteenth and thirty-sixth section that can be used as a basis of selection; hence, the young man at the present time cannot obtain his one hundred and forty acres unless the land costs him from two and a half to four dollars an acre.

Mr. Chandler—Well, have they not that information at the State Land Office?

A.—They ought to have it.

Q.—It is their duty to have it?

A.—Yes, sir; it is their duty to have it.

Mr. Klotz—Well, would it not be better, if there is any speculation in it, to have the State make it; and the School Fund could have the benefit of it?

A.—Yes, sir.

Mr. Meyers—The information costs more than the land?

A.—Yes, sir; a great deal more.

Mr. Higbie—Could that information be had; supposing I make application for the land, could I get this same information by going to the State Land Office, that this lawyer gives?

A.—Yes, sir; you ought to be able to.

Mr. Murphy—Then what is the object in paying that amount?

A.—You can't get it there.

Q.—Don't you think there is some collusion between the State Land Office and those parties, those attorneys?

A.—Well, I have known some of them myself.

Q.—This thing is practiced for their special benefit, and to the detriment of the people at large?

A.—Yes, sir; that is the fact.

Q.—Do you know of any particular instance?

A.—There is no royalty on lieu lands. It should be merely and entirely subject to the State Surveyor General, and he ought to have the entire control of it, for it is made his duty, under the law, to designate the sixteenth and thirty-sixth sections that shall be used as the basis of selection. Of course I say I don't know what is free and what is not free. We will see where a half a dozen have been used in a half a dozen selections. Here is an attorney who knows all those selections, and this knowledge he charges higher and higher for. He knows

whether one selection is good and another is bad, and he can tell at a glance the standing of every selection on account of the different law questions that are involved in it. And here is a piece of lieu land that may have been selected two or three times, and yet every selection may be invalid. His knowledge is, therefore, sufficient to say: "You can go and make an application, and designate this as portion of the sixteenth section, and I will guarantee you will get your application attended to, and get your land as you want it." It goes to the State office, and that application is filed, and when the Surveyor General comes to examine his books, he says: "I can't allow this, because this selection is used in perhaps two or three other applications." The attorney says: "I know this, but I know those applications are not correct in themselves. They cannot be correct; they can't be approved;" and hence he insists upon his right for filing his land application. Then, in the process of time, when all these other questions are settled or set aside, his comes in. Well, the Surveyor General cannot determine all those questions, unless he makes it a special study, the same as attorneys do; and I hold this, that the State ought never to make a selection unless she knows she is entitled to indemnity, and she ought not to be allowed to make up for the same until all questions are settled concerning it.

Mr. Chandler—Then this ignorance on the part of the Surveyor General is not intended to work an injustice, but because they are really ignorant of it themselves?

A.—They were ignorant of it until three or four years ago; prior to that time they could not tell; since that time they can tell pretty well.

Mr. Higbie—Well, does the office continue in that state of reticence yet?

A.—That office is in pretty good condition now, so far as that knowledge is concerned. They have their books in very good order.

Mr. Meyers—They can have as full knowledge of that as any attorney, if they take but time to examine?

A.—Yes, sir; the Surveyor General understands that subject pretty well; he has got many points on it—a good many.

Mr. Higbie—Are you acquainted with the manner of locating this University scrip, of California?

A.—Yes, sir.

Q.—Have you any suggestions to make in relation to arriving at it?

A.—No, sir; I don't know well how it can be better. The grant is nearly absorbed now.

Mr. Meyers—Is it not more than absorbed?

A.—I think not, sir; there are some loose locations that you might say were made by inserting lands that will be set aside, or will have to be set aside, under their rules—requiring an advance on all applications of twenty per cent. I think those would fall out; and I think they are setting those aside; the grant is pretty much used up.

Mr. Klotz—Is the College scrip different from the University scrip?

A.—No; all the same; it is under the same grant, sir. The College scrip is not issued in this State. College scrip is only issued in States that have no public lands in them. No State having public lands in them are allowed to issue scrip. Hence, the lands that are to be used for that grant must be selected by or designated by the State, the same as lands of other grants to the State. It generally goes by the name of University scrip; but there is no such thing issued at all, sir. No, sir, I think there is no University land in this State. They have been pretty well managed for the benefit of the University. Three years and a half ago,

when a proposition was made to sell off all to one person—that is Friedlander—Mr. Friedlander made the offer to take them at a certain price, Governor Haight and myself had some conversation about it, and I showed him that, in my opinion, it would not be doing the State justice to sell them at that figure; properly managed the State could realize from it, with but slight exception, five dollars an acre; showing the condition of lands in this State, and the demand there was for State selections—Mr. Friedlander didn't get the lands. I think the State will realize an advantage from it; she may have lost some interest in the matter, but she gains some in principal. No, sir; I think the University grant has been very well managed for the benefit of the University. I say that from my own knowledge of it; and I am pretty well conversant with it; I have made a good many selections under it for parties, too. The only thing that I ever saw about it that I didn't entirely approve of, was that I thought that whatever funds were received in behalf of the University should have been immediately deposited where the University could have obtained some interest for it. That is the only fault that I ever found in the matter.

Mr. Higbie—Do you know how the proceeds were used?

A.—No, sir, I do not. I know all the deposits were made in the Bank of California, but whether the Bank of California pays interest on them or not I don't know. Whether the grant has been handled oppressively I don't know. I think it has not—so as to interfere with the settlers on it. I have known some cases where the Regents acted very honorably in the matter, indeed. And I know it was the intention to do so. A case came to me; a man had lived on his land for eighteen years, and had failed to comply with the United States law in making his filing, and the University application was made upon it. I went to the attorney for the claimant under the University, presented the facts of the case to him, and he declined to withdraw, unless he received quite an advance for it, to change. Then I went to the University Regents and laid the matter before them by affidavit. They authorized their agent to investigate the matter, and if the facts were found to be as alleged, they ordered him to withdraw the application, so as to remove the oppression. He did so. The case was carried up to the Department, as to whether the University should have granted the application, under such circumstances. The Commissioner held that the University could not. It went to the Secretary of the Interior and the Assistant Attorney General, and they all decided that the State selection was improperly made, under the instructions of the University, and that it should be canceled, and it was. Well, several instances of that kind have come under my observation, showing that the Regents did not intend to interfere with the rights of the settlers.

Mr. Meyers—There was nothing in this instance showing anything on the part of the Regents of the University?

A.—No, sir; their instructions expressly prohibit it.

Q.—Applications, it appears, had even been made upon certain sections by parties in Butte County, and there are valuable improvements made on part of it?

A.—I have not much knowledge of that. A great trouble, arising from these grants, is this: you may see they are used by parties when they want to take advantage of other parties, as, for instance, we will say here is the mouth of a certain river, and a man has a mill and he wants to get hold of timber land around there, but his neighbor on the next stream, near there, takes advantage of him and cuts him off and

takes advantage of all his timber land. A good deal of the University land has been sold as timber land, I think, in that way.

Mr. Higbie—They have thirty days priority over all others in proving up?

A.—No, sir.

Q.—In locating?

A.—Yes, sir. When an application is made under the University and the land is surveyed, they have a right from the date of that notice until thirty days after the map is filed by the United States Land Office. They have time to make their selection in that township, and all parties there subsequent to that notice come in behind the University.

Mr. Klotz—How much can you take in a township?

A.—No limitation; the grant is one hundred and fifty thousand acres, and the township is about twenty-three thousand acres; it would not take many townships to absorb the grant, but under that Act they are not limited in their applications on behalf of the University, as they are under the laws.

Mr. Meyers—They make applications for a certain amount and tie up a township?

A.—Yes, sir; that is it; and nobody can settle on it without risk, and you may go ahead and make your improvements, and when the survey is made apply for it.

Mr. Murphy—Are there any other matters that you wish to testify on—any other points?

A.—No, sir.

Mr. Meyers—In the Spanish grants in the State, we know definitely how much land the State has received, that is, of lieu lands?

A.—Not all of them, there are some unsettled ones yet.

Q.—And you cannot tell specifically either how much we will lose on the swamp and overflowed lands?

A.—We can come very near that.

Q.—How is it with the mineral land?

A.—I could not say, exactly, as to that; that I have no idea of. To show you why I think as I do about the sixteenth and thirty-sixth sections in the mineral belt. Evidently our School Fund belongs to the State as a General Fund: In other States the sixteenth and thirty-sixth sections, or the proceeds, went to the particular township in which they were situated. Had we not adopted the plan we have, our mining regions would have had no School Fund—none at all. Hence, I say, that to increase the Fund, and to give the mining sections and the other portions of the State the benefit of the sixteenth and thirty-sixth sections, that are now in the mountains or the mineral belt, the State should have indemnity for that, or for all there, in some shape, because the School Fund that is now created has come from the lower counties, not from the mountain counties; so that the lower counties are really supporting the schools in the mountains without ever having received an equivalent from the mountains towards that account. The mountains would never have had a dollar of School Fund had we not adopted that principle by the State; and it is the duty of the mountain counties to donate their quota of the sixteenth and thirty-sixth sections as equivalent, as near as they possibly can, because they are receiving the benefit that is coming from the other portions of the State, and so there is no swamp land. Where the sixteenth and thirty-sixth sections are covered with swamp land, the School Fund has received no benefit. They have given nothing towards the School Fund, while they are receiving

benefit from other portions of the State that have had sixteenth and thirty-sixth sections. To equalize the matter throughout the State, I believe that those matters should be attended to; and an addition of two or three words to the law of eighteen hundred and fifty-three would give it to us. We don't want more than two or three words. Oregon and other States have it, and we are entitled to it. The party properly representing it at Washington would obtain it, possibly; at least, that is my opinion. I may be mistaken; I give it for what it is worth.

Mr. Meyers—Your opinion is, then, that if we had a party at Washington who would really see to the interests of the applicants, it could be all straightened out?

A.—That was, if a man gave his attention to it.

Mr. Higbie—And also secure the sixteenth and thirty-sixth sections throughout the State, of swamp and overflowed lands?

A.—Yes, sir.

Mr. Meyers—And if that could be done, you think, although the applications have been greatly in excess of the lands that are actually now due us, if they were brought in they would cover everything?

A.—Every valid application. There is enough due the State to straighten up the whole of it, if it were put in proper shape.

Mr. Higbie—Would you have any objections to state to the committee what those words are—those two or three words by which the law would be remedied?

A.—It is an Act of Congress, not a State law. It requires but two or three words in the Act of eighteen hundred and fifty three to give you indemnity.

TESTIMONY OF S. M. PUTNAM.

S. M. PUTNAM, called, sworn, and examined:

Mr. Murphy—State your full name, residence, and present occupation?

Answer—I reside in Santa Clara County, my office is number seven hundred and four Montgomery street, and I am an attorney at law.

Question—Do you know anything, of your own knowledge, in regard to the perpetration of any frauds in connection with lands, or any suggestions to make in reference to the lands of this State?

A.—Well, I hardly know what to say in reference to that, as I don't know that I know of any. There are some suggestions that perhaps I could make that would be of some benefit to you.

Q.—You don't know of any improper means by which parties in this State have acquired immense tracts of land to the detriment of others?

A.—I do know the fact, but they have obtained those tracts under the laws of the United States.

Q.—Was it the fault of the law or the fault of individuals?

A.—The fault of individuals. Do you wish me to make a statement?

Q.—Yes; make a statement.

A.—I think that five years ago—it is five years ago next June—I was employed by the parties in this suit to purchase land in the San Mateo Valley; there being at that time immense tracts of land there, free land, that is, land that could be bought by you, or me, or anybody, at a dollar

and a quarter, currency; or could be located with what is termed Agricultural College scrip of the United States, which was then worth from sixty to seventy-five cents an acre. I went to the Land Office at Stockton, and inquired at the Register's office in reference to certain townships, and ascertained that they were open, unbought, but susceptible to be purchased at a dollar and a quarter an acre. I went on the land, which lies in Fresno County, and examined it. I was gone three days, I think, and returned to Stockton, and when I arrived at the Land Office, on each section of the two township plats—

Mr. Higbie—The ones you went to look at?

A.—Yes, sir—was written J. M., on every section, except the tenth and thirty-sixth sections.

Mr. Murphy—J. M.?

A.—Yes, sir. J. M. was written in pencil; and the United States map was defaced, which, of course, should not have been allowed; but that was a matter of no great import. R. A. Vilas was acting Register at the time. I asked him what that meant. "Well," he says, "it has been purchased by John Mitchell in your absence." While I had been looking at the land, Mr. Mitchell had purchased it. I stepped into the Receiver's office, and asked to look at his books, and there found that no money had been paid the United States, and that nobody had bought the land. I made the tender, offering him the currency, and demanding that he allow me to enter the land. He refused, saying that the money, although it did not appear on the Receiver's books, had been deposited in the Bank of Stockton. Well, I protested against any such proceedings as that; but they utterly refused to allow me to enter the land. I made the formal tender in writing, something like fifty-four thousand dollars, which they refused. We appealed from their action in the matter to the Commissioner in Washington, and he awarded us the land. Mr. Vilas has since told me that that was a little game they had to squeeze us. Mr. Mitchell didn't put up a cent. He said, of course, that he misrepresented the case; but it was done there in many instances. He told me further, that he had, under the instructions of these men—various parties had done the same with their various plats, sectionized, and held them for months for these men, without their advancing anything; and that he had further instructions, that if any party came to the Land Office—say that he wanted to purchase certain sections of land—to at once mark those sections; if the party, for instance, went out to get his currency to buy them with. After ascertaining that they were clear, his instructions were to put on certain initials, and when the party came back, why, Mr. Doe—or Mitchell, as it may be—had bought that land.

Q.—From whom did he receive those instructions, did you say?

A.—I don't know who he received them from; they were his instructions, and he practiced them. If the man could be found here now—I think he left for New York three months ago—he will make the same statement to you. Having had difficulty arise between them, of course he now exposes those parties and practices which were going on at the time. You see, one could not help understanding. We knew it was a fraud. Well, we obtained the land; we were entitled to it; the Commissioners awarded it to us.

Q.—This was merely blackmailing?

A.—Yes, sir; of course. If he had got three thousand dollars you would not have had to send the case to Washington. He has since told me, having fallen out with those men, that that was his practice

in a great many cases, and that he now repented it sorely, as he had helped rob many an honest poor man. Now, those are the only cases of direct fraud that I have ever come in contact with.

Q.—Are there many plats in the office marked to Chapman?

A.—I didn't see any, sir.

Q.—Those are the only cases that came under your observation?

A.—Yes, sir; those being where I was purchasing for parties in this State. That is the great fault of the United States law, in reference to our land system, in allowing one party to purchase all he has got money for; one township, or twenty, or all in the State, if it were free land.

Mr. Meyers—Is not the law corrected; it is not permitted now by the present United States law?

A.—It is permitted in any cases of free land. I am not aware that there is any change. There has been a limit to this so-called United States Agricultural Scrip, limiting it to three sections in a township; but at that time the scrip was selling at as low as thirty cents. They could go and locate with that scrip—whole townships of it, or as many as they saw fit to; but I think in eighteen hundred and fifty-six the Department issued a special order, limiting it to three sections with scrip; but there is no limit to currency interest. You can purchase any township in California that is free land.

Mr. Meyers—I think I heard that Mitchell, and some one, had got into some trouble with some San Francisco parties. I heard the name—Pierce, I think?

A.—William and Henry Pierce were the parties that I entered the land for, and there was several other parties with them. It is a notorious fact that that was the reason of it.

Mr. Murphy—Do you know anything of entering this Sioux scrip on land here?

A.—No, sir; I only know in reference to one case, and that is in San Mateo County; and that is the only case that I know of personally, and only then because the scrip was spread over a ranch. The scrip was located so—

Q.—It was located over a ranch?

A.—Yes, sir; over improved property. *Mr. Coburn's*.

Q.—You don't know about the number of acres that is covered by Sioux scrip in this State, do you? Can you approximate the number?

A.—I had a list, a few days ago, of every location made with Sioux scrip in the San Joaquin district; but I have sent them to Washington; I could not tell you; no, sir.

Mr. Murphy—Have you any suggestions to make in reference to correcting any ills that exist?

A.—Well, I would suggest this: there are many of these things, had the Legislatures that have preceded you taken this thing in hand, many abuses could have been prevented. This lieu land locating, and so forth, could have been—there could have been many restrictions put upon it which would have been of great benefit to the people and to the State.

Q.—Did you hear any of these suggestions made by *Mr. Shanklin* in regard to lieu lands?

A.—I heard the latter part of it—in regard to the bill of *Edgerton's*.

Q.—You coincide with his opinion in that respect?

A.—Yes, sir. The trouble has grown out of the practice of locating those lands properly. For instance, when Congress, on the third of March, eighteen hundred and fifty-three, granted this State the sixteenth and thirty-sixth sections for school purposes, and in the same Act pro-

vided means for obtaining indemnity for those sections that were lost by preëptors claims, and those that fell in Spanish grants, etc., in private grants, the fault was there, and, of course, we had our own management of the affair; but when this new land locating became lively—to illustrate my idea: if, for instance, I located a section of land in Santa Clara County, Mr. Johnson one in Napa, this gentleman one in San Joaquin and in various other counties, my application comes on to-day; I use, as my indemnity, section sixteen, in two south, two east, in Los Percivas Ranch; you make an application for land in Santa Cruz and use the same indemnity; and we all use the same sixteenth section; knowing the State is entitled to it—it being lost in the Spanish ranch—mine comes on file to-day, yours to-morrow, and Johnson's next day; they are all received.

Mr. Higbie—At different offices?

A.—No, sir; in the same office. They are all received. We are all applying for land on one section of indemnity land. Now, you see this thing. Perhaps we may discover that other parties have used the same lieu land that you have. You, in hot haste, rush on to Washington, have your survey through, and come back, pay your money, and get your patent, while the first applicant loses, because there are no settled regulations. They wouldn't receive any. I have been told there were applications ten or twelve deep for the same land, and perhaps the last applicant got his land listed, and all the rest lost theirs. That is wrong, of course.

Mr. Murphy—Is not that now stopped, to a considerable extent?

A.—Yes, sir; but the land business has dwindled to nothing, now. It went on to a great extent, and of course it was very troublesome. Well, here they list now only in their order. Then they listed the first applicant that came to Washington, and I believe that there are still sixteenth and thirty-sixth sections enough in the State to furnish indemnity for all the applications that are on file, in currency. Don't you think so, Mr. Johnson?

Mr. Johnson—Yes, sir; yet I suggest at the same time that there are a great many parties purchasing from the State under the old laws, which were declared invalid in the Supreme Court of the United States, unsurveyed lands, and had them surveyed. Those laws were in contravention of the laws of the United States. They purchased them in good faith (families), for themselves. The Congress Act was passed in eighteen hundred and sixty-eight (?) Speculators then went in and took from under them their indemnity, the basis of their selection, and went up and got them listed over, and these poor families were out the whole ranch. This was merely by allowing subsequent locations to be approved with the same indemnity.

Mr. Murphy—Well, in your opinion, there could be no legislation at the present time. You stated this fault is corrected to a great extent?

A.—Yes, sir.

Mr. Meyers—That is, of having the same location for different lands?

A.—Yes, sir.

Q.—That was corrected without the aid of the law?

A.—Yes, sir; that was by the regulations of the Department.

Q.—Are you familiar with the University land selections of this State?

A.—Yes, sir; I have made quite a number of selections there. I have from its beginning.

Q.—Is it worked well?

A.—Yes, sir. I think that is one of the best managed matters that we have had; that is my opinion. I listened to Mr. Schanklin's statement, in reference to the conduct of the Regents, in reference to these locations, and it is eminently true. I had two or three instances of the kind come under my own observation. They made an effort, in all cases, to do justice to parties, and their instructions are to make no selections that conflict with preëmptors. That is one principal point they make. If it is proper to make a suggestion in reference to a bill now before the Legislature, I will do so; in reference to Senate Bill No Two Hundred and Ninety-two, introduced by Mr. Gray.

Mr. Murphy—Assembly Bill No. Two Hundred and Ninety-two.

A.—Yes, sir. You understand the provisions of it, I suppose. Well, my opinion is, as the bill is it should not pass, for the reason I don't think the deposit should be given to the State Treasury; neither do I think that the business should be turned over to the Surveyor General's office, because we all know that the office is incumbered with a great deal of business, and this being a district matter, and having been given to the Regents for their sole and separate management; and from the fact that the grant is probably exhausted and ready to be settled, I think it would be folly to disturb it. It is just as well as it can be. It has been granted all the right, the money is deposited in a safe place; but I would corroborate Mr. Schanklin's suggestion, that if the money is not on interest it ought to draw interest for the benefit of the University; otherwise, it would have been better to have left it in the hands of the purchaser—this dollar and a quarter an acre—and let him pay interest on it, and give bonds rather than require him to pay a dollar an acre, and put it in bank and pay no interest. For instance, the five dollars, outside of railroad reservations, and six and a quarter inside, they make their payments bearing interest—ten per cent. All these deposits bear interest, and it would be better to let the whole thing remain in the hands of the purchaser, and secure them by giving bonds for the payment of them at a certain time, as was thought by the Regents seven months ago.

Mr. Chandler—Well, is it not your opinion that it does draw interest?

A.—Well, I am inclined to think so, but I never heard the question raised until it was raised here. Do you know, Mr. Johnson?

Mr. Johnson—I understood, yesterday, that there was a certain stipulated rate of interest of four or six per cent allowed.

Mr. Higbie—How much?

A.—I understood six per cent a year. Six per cent would be a very fair interest.

Mr. Meyers—Wouldn't it be safer to invest it in the United States bonds?

A.—The trouble about that is, that a large amount of this money is liable to be returned to depositors, and if invested in United States bonds it could not be got at right away.

Mr. Shanklin—Of course it should draw interest while it does remain on deposit. The ten thousand dollars is deposited in the Bank of California. I have to deposit it there if I apply for ten thousand dollars worth of land. If anything occurs by which they can't give me title, my money is returned; but while it is deposited, whether it be a longer or shorter time, the University ought to be entitled to the interest.

Mr. Higbie—The University would get a better interest from the holders of the land, or the preëmptors, or those who got the land on the scrip, as they call it, than they get from the bank?

A.—They get ten per cent on it, the interest paid annually, and the title to the land remains in the University as security. So they are perfectly secure. It is perfectly secure.

Mr. Meyers—More applications have been made than there is land?

A.—I think so, sir.

Q.—How does that come; can't they find out; don't they know what they sell?

A.—They are now, I believe, about to close up the matter, and ascertain exactly how much there is remaining, or whether they have exceeded it. It comes in this way: many applicants under the early regulations of the University—they had received applications on unsurveyed land, requiring no payment from the applicant. Now, you see, that when this land is surveyed, some of those applicants may fail to make payment. Even some have dropped out already, and it is impossible to tell exactly how they do stand, until they come to some point, and call in the payments. And now I will make another statement. In receiving applications for the last few months, they have made a special provision in those applications, that if any matter is settled they have not land to fill these applications with, that the application is null and void, and the University simply returns the money, so there can be no murmur from that. The applicant takes his chance, of course.

Mr. Meyers—A number of applications have been made by those who never paid anything?

A.—Yes, sir; under the early regulations, but they sent notices to all that at a certain time they must come and pay the dollar an acre. Some did not come. Some have not come yet. But they have given every one fair notice, and if they come in, I suppose, at any time, they can make their payment.

Mr. Klotz—Up to a certain time?

A.—Yes, sir; they will give them the land.

Mr. Meyers—It is in such condition, then, that they cannot furnish land to all the applicants that will be apt to apply and pay for it?

A.—Now?

Q.—Yes, sir.

A.—No; I think they won't be able to furnish much more land. That is my impression.

TESTIMONY OF WILLIAM W. JOHNSTON.

WILLIAM W. JOHNSTON, called, sworn, and examined:

The Chairman—State your residence, and present occupation?

Answer—Residence at the City of San Francisco, and attorney and commissioner at law; making a specialty of land business somewhere in the neighborhood of ten years.

Question—Are you conversant with the lands of the United States, and the modus operandi of entering them?

A.—Yes, sir. I was formerly a head clerk, sir, ten years ago, in the

Land Office in this city, and Deputy Registrar of the United States Land Office, under John F. Swift and James W. Shanklin.

Q.—Do you know of any improper means, any frauds, by which lands have been acquired in this State recently?

A.—Well, yes, sir; I do; though pretty near in compliance with the law, yet dodging it to a certain extent.

Q.—Make a statement, as brief as possible, in regard to your observations of this matter?

A.—Well, it might be well to take up seriatim the various grants under which lands were filed. I suppose it is unnecessary for me to cite the Act of 'fifty-three, which grants to the State the sixteenth and thirty-sixth sections, and in case they should be lost to the State, lands in lieu thereof, for any of those sections which may have been taken by preëmption or private grants. Suffice it, however, to say that the State is entitled to the sixteenth and thirty-sixth sections under the laws, and when lost or in place—we say they are in place; that is the common phrase among land men when they are lost—we take those other lands in lieu thereof. There is a misnomer. Lands that are lost to the State are called lieu lands, whereas, lands selected should be called lieu lands. There is the misnomer; whereas, the lands that are lost are known among land men as lieu lands, thus speaking that way with the general term. They should be the property of the State. I make this explanation so that you will understand. In early days a man wanted to list lands under the State as lieu lands. They required that the Government only may give him one hundred and sixty acres for preëmption, one hundred and sixty acres of homestead, and wanting other lands therefor, he would seek to select them as lieu lands. Prior to the twenty-eighth of March, eighteen hundred and sixty-eight, he came to the Locating Agent, and he would furnish him and pay his regular fees. During the land excitement of eighteen hundred and sixty-eight there was quite a call for lieu lands, and at that time everybody was in it nearly, and a great many locations were made all over the State, some of them very civil in their character; and sometimes old locations that had been ten or fifteen years ago used by farmers occupying the lands, in their simplicity, because they had gone to the Locating Agent and paid their fee, considering that they had a perfect title, they didn't look further, and didn't employ an attorney to procure the title; and these speculators would step in, and use the basis of their applications, and take them from under them. The "Conness Act" had not been passed at that time. Matters were carried to Washington, and the consequence was that the lieu lands, which formed the basis of their application on every three hundred and twenty acres or less, was taken from under them. These lieu lands were gobbled up by some speculators in a body, at Sacramento. Whether you gentlemen have ever examined the records of the Stockton General Office at Sacramento I know not; but you will find that in there that large tracts of it had been taken. They will buy them, or procure them, and when a man came along who desired to make a location anew of any old lands, he would have to go to one of these men and say, "I want to secure some lieu land;" and you would reply, "How much do you want?" Well, I would sell you the land for a dollar an acre, or two dollars an acre, or a dollar and a half, as it happened to be. Now it is three and a quarter—the last time I ascertained; I think it is held somewhere at three and a quarter. Now, at the present time, it is held for three and a quarter or three and a half. He has got to pay three and a quarter per acre, not for anything

that is corporeal at all, not for property, but as a royalty. You all understand it—for knowledge that this man has, which he seeks to purchase the possession of, he may have to pay three dollars and a quarter per acre. He makes his application for this lieu land, which is furnished him. He puts that in as the basis, makes his application, and it is found that the State is entitled to indemnity for that land which he has paid three dollars and a quarter per acre for. It is approved, and he pays the State a dollar and a quarter more—that is four dollars and a half an acre. The State price is only one dollar and a quarter.

Mr. Meyers—He pays them three dollars and a quarter for the information?

A.—Yes, sir.

Mr. Higbie—Is it necessary that he should pay that?

A.—Yes, sir; or lose, go without his land, under the regime now existing.

Mr. Murphy—Does that exist at the present time?

A.—Well, to a slight extent; but as it is commonly said: "it's about played out."

Q.—It is getting less common?

A.—Yes, sir.

Mr. Chandler—Then that information is more readily got at the office now than before?

A.—No, sir; it is more difficult to get now than ever, for there is so little lieu land that it is difficult to get any of it.

Mr. Higbie—Why is it so difficult?

A.—Because certain men made a business of examining the records and spending their time merely and solely in examining the records, where the State has lost a piece of land which she has not received indemnity for; and when they ascertain any such piece they sell it, the information of it, as a royalty; and in proportion as the lieu land becomes scarce, it becomes dearer.

Mr. Cox—Why could not the State receive it, and control it, and pay it to the schools?

A.—I will tell you why; because, for instance, during the old regime, prior to the inquiry now existing under the present laws, I have myself paid a clerk three hundred dollars for the knowledge of the whereabouts of two hundred and odd acres of lieu land. The Clerk had worked them up for himself. I wouldn't pay him as an attorney at law; but he had taken time and hunted them up, and I could not do it. I could not afford to do that; and my client came to me, and all I could do was to tell him that I would buy it if I could.

Mr. Klotz—Why could not the State control this information, and make the benefit of it for the schools?

A.—The trouble will not lie with you, nor yet the remedy. It is too late; the door was left open, and the mare is stolen.

Q.—It is never too late to do some good?

A.—No, sir; but it is hard to reach it now; and all there is in existence of these lands will not last, probably, until you make your report to the Legislature, and may disappear long before that time.

Mr. Meyers—All this information could have been had free, provided the Surveyor General or the State had employed a clerk of capacity to have kept posted?

A.—It would all have been right if you had given the Surveyor General of this State power to act in this matter; not your body, but the body that preceded you.

Mr. Higbie—Had he not power to act in the matter, and keep a record of all these applications?

A.—Oh, yes, sir; he had the power to keep control of all applications, but there were no special powers for him to furnish lieu lands for individuals.

Mr. Klotz—For him knowing how much there was?

A.—He could not know, because he was not furnished with the authority, or power enough; nor is there any law which provides for him obtaining that power.

Q.—It could have been done?

A.—Yes, sir; it could have been done once; but if you passed a law now, I don't know that you could find one case in the next five years that the law would apply to.

Q.—It would do no harm now?

A.—No, sir; nor good, except to fill the statute book with laws that were obsolete, nugatory. Now, I am not inclined to be a fanatic on the subject. I think our State law needs a little change. I am not a speculator, myself, and have nothing to do with it, nor yet do I believe in confining a man to something that he could not make a living in. Now it is ridiculous, this hue and cry that nobody should have over one hundred and sixty acres; is perfectly ridiculous. For instance: John Jones is a sheep man, or mill man, and the Legislature limits him to one hundred and sixty acres of land. Now we all know that sheep land, as a rule, is high mountain land, which is perfectly unfit for cultivation. Now if the State refuses to sell that land, except in as small a body of three hundred and twenty or one hundred and sixty acres of land, she will not sell it for fifty years. The sheep man will run his sheep over it, and use it, but he will not buy it, and the State's School Fund is out a dollar and a quarter an acre—two hundred dollars on each one hundred and sixty acres, and that is all there is about it. Now my idea is, that if some plan could be devised by which the State could graduate her lands—sell the agricultural lands at more than a dollar and a quarter an acre, and the grazing lands for less, and not graduate the amount of money which the School Fund is to derive from them—I think that there would be far more than is derived from the present regime.

Mr. Higbie—This has no relevancy to fraud, or lands secured by roguery?

A.—The law of this State, under our present Code, provides that the applications made for the sixteenth and thirty-sixth sections, the applicant shall swear that there is no occupation of that land adverse to his own. Inasmuch as I disagree with some statements made here by gentlemen, and with some I agree perfectly—in fact a portion of it they stated entirely different from what it is. The law provides the price at which lands shall be sold in the seventy-second section of the printed Code [reads]. It sells at one dollar and twenty-five cents per acre, according to law. The five hundred thousand-acre grant is exhausted. The seventy-two sections are exhausted. The grant for ten sections for public buildings is exhausted. There now remains only to be exhausted the sixteenth and thirty-sixth sections, the grants of land in lieu thereof, and the grant of lands to the University of the State of California. As Mr. Putnam has already told you, the grant has already been exhausted of the lands of the University of California, and more than exhausted; so nothing can be done on that subject. They have contracted, as I believe, for some eight thousand acres more than they should. But some of the applications made to the University by the various appli-

cants for the preëmption of land, conflict with preëmption claims, or old State claims of various grants. I know some of those applications are liable to drop out at the Registers of the United States Land Office throughout this State. In that case, for instance, there is an application for one hundred and sixty acres of land which fails, because the preëmptor has a better title to it than the University could acquire. Thus the University has one hundred and sixty acres to get from the State, and that would be put on to the eight thousand acres, leaving a less deficit to be made up. Then comes a tract of three hundred and twenty acres; and this will go on for a time, and in the end the eight thousand acres will be made up. The University, as Mr. Putnam suggested, now requires that in case the University fails to acquire title, that the purchaser shall in no case require them to give title to patent, and his deposit of money is refunded to him immediately from the Bank of California. As soon as the University ascertains that an applicant has made application for land, and they find that they cannot obtain it, the money is refunded. They will not allow any fraud to be practiced on preëmption claimants, or any claims, no matter what they may be; they immediately abandon it, and return the man his money. That is why it would be greater labor to take the matter from the State, from the Treasury of the University, and place it in the State Treasury. My experience has taught me that in reference to claimants—you are aware that the law of the State of California fails to give title to you or any one else; that they are obliged to refund the money, and the costs paid upon your locations, the interest you have paid at ten per cent per annum, as provided by law. In order to obtain patent money back, your client, or anybody outside of the law profession, must employ an attorney to do so, and then it costs considerable. The attorney must go to Sacramento and work through the whole thing; so that if the State only gives him one hundred dollars, it costs him fifty to get it. Under the University management it does not cost him a ten cent piece. They examine the matter, and send their deputy or agent to find out if it is all right; and if the University cannot get the land, Mr. Moulder sits down and writes to Mr. Ralston to return the applicant his money; he takes it over to the office, and Mr. Ralston indorses it; he then goes to the cashier and gets his money. A client came to me the other day to collect for him some money due on an application, and I told him to go and get his money himself, that it wouldn't cost him a cent; that is, there is no charge to the parties locating. The present law provides that every occupant of a sixteenth or thirty-sixth section, giving the description by the required specifications—[reads]. He states that no adverse occupant had been in possession; that he has held occupation for more than sixty days—[reads]. Now that law is as good a law as can exist, with one exception; and that one exception is the same you adverted to yourselves—the dummy system.

Mr. Higbie.—The what?

A.—The dummy system. In the first place, it provides that not more than three hundred and twenty acres shall be purchased by any one person. Now, John Jones purchases, and wants six hundred and forty acres. He goes and talks to Tom Smith, and gets him to go with him; there are only three hundred and twenty acres to each person; but Tom Smith he has obtained as a dummy. Now in Mr. Barnes' testimony, he spoke of the "curative Act of eighteen hundred and seventy," and cited the instance of Captain Tom Hulf; which I know nothing at all about. That Act was not passed to cover that case, or any other;

but the fault lays with the laws of the State in that particular. From eighteen hundred and sixty-eight down to the early part of eighteen hundred and seventy, until the time the Supreme Court decided the case of *Hildebrand v. Stewart*, which is in the forty-first or forty-second California Reports, the Surveyor General's office, under law, caused blanks to be printed, and distributed to parties, those making applications. It read all right, down to a certain portion. It read: I, John Jones, desiring to purchase such and such State lands, and so forth, agree to pay for it so and so; and then John Jones signs his name on it, filing it, and John Jones solemnly swears by that, "I am a citizen of the United States. That I have not entered any portion of the sixteenth or thirty-sixth sections, which shall exceed three hundred and twenty acres, taken together with that now sought to be purchased." Now the law provided, that if he wanted to apply for any land, that he should swear that he was a citizen of the United States, and there was only a statement required of him in the first part of the blank; and that blank was filled out and he signed it, that he was a citizen. Now that blank was not in compliance with the law. It was not drawn in compliance with the statute. Many men desiring one hundred and sixty acres, and having a great deal less, had made applications upon these blanks furnished by the State Surveyor General, and some of them had merely certificates of purchase, and had held on to them for two years and paid taxes on them; and some of them had passed to patent even. Now in the case of *Hildebrand v. Stewart*, we were out and injured. Their whole title was a nullity, although they paid all the money, and had bought it in good faith—most of them farmers. Now when this "curative Act" was passed, to perfect those cases, those were the only cases which were intended to be perfected by it. When that "curative Act" happened to strike Mr. Barnes' case, it was doing a little wrong for a great right; because it would have upset over half the titles acquired in the State of California, unless that law could have passed. Some of those old blanks—there were a great many of them, and I can send you some, and you will see, very likely. The cases of *Hildebrand* against *Stewart*, and *Sutt* against *Harrington*, and *Stewart* against *Cases*, in the Supreme Court, will show you the whole matter. Now under this law, no person is entitled to take more than three hundred and twenty acres of land; but if the law was changed, so as to read, "Provided no person shall, directly or indirectly, acquire more than three hundred and twenty acres of land under this law," it would be different.

[Reads section four hundred and ninety-five of the Political Code.]

Mr. Higbie—Then you could not buy up a dummy?

A.—That bars the dummy business out, and I know very often it is done. I know it very well, indeed; because I have got some cases of bona fide settlers against dummies. The land law is perfect enough, by a change or two. Now, the latter part of that section provides that, if there is adverse occupation to that land, then the affidavit must show that the township has been subdivided, and sectionized three months, and that the adverse occupant, or the occupant adverse to the one making the application (giving his name), has been in such occupation for more than sixty days. The law provides that the applications must be made within sixty days after settlement. In the first place, the law gave six months, after the passage of the Act, for all persons to come in. Now, throughout this State, you will find many persons in the occupation of the sixteenth and thirty-sixth sections, who have been occupying them for over ten years. Well, what is the effect of this? It is

this: they are occupying the land, paying no expenses, no taxes, and eating the substance out of it. Taking it out, and never paying a cent therefor of the purchase money; and the land being the property of the State of California, can't be taxed. Now, it would seem to me, so far as the State is personally concerned, for the benefit of the people of the State at large, and especially for the benefit of the School Fund, that parties occupying the sixteenth and thirty-sixth sections should be compelled to come in and buy it; and thus contribute to the School Fund, and contribute to the general taxes of the State at large. I cannot see, although Mr. Barnes comments upon that; but was this a just law, on that point? Now, the Act provides that, when this shall become a law, and the applicant shall show who is in the possession, and show this certificate, and when it is surveyed (giving the name of the party), then the law allowed them to come in; and that would put the occupants upon their notice. Everybody is supposed to know the law, and it shows a want of laches on their part, to say the least, and an indisposition on their part to buy the land. You cannot buy it until it is surveyed; so with reference to this other matter; and as I have already said, there is only one thing to be amended, and that is, as the gentleman suggests, to prevent the use of dummies. That is all that is required there.

Mr. Higbie—I notice that there were eighty-nine thousand six hundred acres applied for and registered in one day, through dummies.

A.—Through dummies?

Q.—Yes, sir.

A.—Well, I don't understand. This is the report. Mr. Hardenbergh's name has been mentioned here, Mr. Allee's, and Mr. Chapman's. Now, my idea is that the grand fault in the whole system is situated not in the State laws—it is in those of the United States. Here is a man—Mr. J. P. Dyer—formerly a partner of Mr. J. R. Hardenbergh, and intimately connected with him, who has made a practice for years of locating the sixteenth and thirty-sixth sections. Mr. Hardenbergh had surveyed in township thirty north, range three east, in Mr. Klotz's district, where the Welton Hill is; that township was surveyed on behalf of the University of California, on the application of various parties there to locate certain timber lands, who had built their mills and paid a great deal of money. Of course a hundred and sixty acres of land would never do for a mill man up there in that country, although it was the practice of the Surveyor General, for years prior to Mr. Hardenbergh, to allow the parties who made applications to select their surveyors, so they could have it cheaper. Mr. Hardenbergh refused to do that, but had his own particular man, and of course expenses were enhanced. He sent up Mr. Minto. My client furnished him with men to assist him through and show him all they could. They furnished him the men free of charge, and of course he made so much more on his contract. They had the survey of that township made. He was notified to make the survey, and made the survey of the township on a certain day—on the thirteenth day of the month. On the thirteenth day they commenced surveying the sixteenth section, and on the fourteenth day of the month they finished it. One of my clients was on the ground, and saw the whole thing done. They wanting the sixteenth section from the State, immediately started a man on horseback down to Red Bluff, immediately the sticks were stuck, and telegraphed to a friend in Sacramento to file

the same, so that they should be the first parties. That party filed it on the fourteenth—after the first line was completed. Mr. Minto, after finishing it, came down to Red Bluff and directed a letter to J. R. Dyer, in the Surveyor General's office, in San Francisco. What the contents of that letter was I don't know. I suppose nobody does but Mr. Minto and Mr. Dyer. Mr. Minto came down on the fifteenth, the following day, having completed his survey, and never went back. He was seen by all the residents of Red Bluff, and everybody there knew him around. One of our folks told me they had a conversation—one of those who had made application for the sixteenth section—and said that he seemed provoked about our action in the matter. On investigating the matter, some time afterwards, I went to Sacramento and found an application made by Mr. Dyer's dummies, and I came down here and examined that application. It was dated the twentieth of the month. The survey was finished the fourteenth, but dated the twentieth of the month. I came down to Mr. Hardenbergh's office and examined the whole matter, and I found that the field notes showed that that was finished on the seventeenth. Now, you can see through the whole thing. The field notes were altered when it was ascertained that my men had applied for the land. The field notes were changed, and it was made to appear by the field notes that the survey was completed on the seventeenth, whereas it was completed on the fourteenth. I called attention to the fact. I could not see Mr. Hardenbergh; at least I had nothing to say about him, because it wouldn't pay for me. I assisted in trying to get him removed; and I saw Mr. Robinson, the chief clerk, and explained to him the matter, and he said he knew nothing about it; and I saw Dyer on the street, but my parties didn't want to get into any altercation, and finally, very much against my advice, they compromised to the tune of two hundred and fifty dollars, and got rid of Mr. Dyer. Those are the facts of that case; and Mr. Dyer used his dummies, and has now lands in Shasta County, and in Sacramento County, secured through dummies; and if you will take the books of F. O. Wagner, the Notary Public, you will find, running through them for various months, you will find applications of so and so, John Jones, Thomas Smith, etc.; on a certain date, school land applications made. Of course the law requires him to keep a memorandum of it; and you will find on the same return, and under the same date, a deed passing from those dummies to somebody else.

Mr. Meyers—Where is that Notary Public?

A.—On Montgomery street, between California and Pine, and that is the way I found Mr. Dyer was the man who owned the dummies. It is such a barefaced fraud—they have settled the thing and got their land now. Mr. Dyer sold it to them, as he had no use for it.

Mr. Klotz—They should have had it?

A.—Yes, sir; they furnished the money for the survey themselves; it was just a black-mailing operation. Well, there is a great deal of black-mailing in the State of the same character; but I will tell you gentlemen, for a man in my position, you might as well shut up shop as to say anything about it. That is the sum and substance of it. If there was an arbitrary statute to sweep off every man who was caught, it might pay us to go to work and furnish proofs; but as the saying is: "We can't afford to lose our bread and butter on that operation;" but I must say that if I found it was a bare necessity on my part, I should not hesitate at all, to protect my twenty dollar pieces, to go right to them and tender them money, and see what they would take for consideration. But

that is a rare thing. But, as I tell you, I have bought lieu lands under the old regime at Sacramento from G. Q. Washington, formerly, I think, the old Secretary of the Swamp Land Committee at Sacramento. It would have been far better if this State had manipulated all the lieu lands and applied it for the benefit of those citizens who located in the country under laws that were illegal. When the "Conness Act" was passed, if they had taken their lieu land, and applied it to those men who had first, and in a bona fide way, applied for the land, it would have been better; but now the stable is open, and the land is gone. Last year, when I was in Washington, I undertook to settle up the estate of Hiram Rush, of Solano County, who, in December, eighteen hundred and fifty-three, purchased from the State three hundred and twenty acres, and we got into a contest, and a man jumped that land through the State's inattention to attend to the business themselves, and the parties of course all depend on the State to do it. And in eighteen hundred and seventy-three—in eighteen hundred and seventy-two the litigation sprung up—I happened to be in Washington, and it was in eighteen hundred and seventy-three, in the Spring, before the estate got a title to that land—there is nearly twenty years. That is a fact. Well, now we have had other trouble. We have had an agent in Washington, and he was allowed two and one half cents an acre. He has made a nice thing in this way. Large quantities of swamp land were listed to the State, and here the trouble came out. The laws allowed him to make two and one half cents, and that was all allowed to him, unless he is paid by the applicant, and as that wouldn't pay a man, no agent wants to have anything to do with it.

Mr. Meyers—Wouldn't it be well for the State to employ some competent person, and give him a salary, and go there and see that these lands that belong to the State would be listed?

A.—Yes, sir, if you give them a fair salary; but you must remember that you can live in the City of San Francisco for about one third of what you can live in Washington City, and no agent of the State would be worth anything there unless he maintained a certain amount of dignity, at a certain expense to keep that dignity up. Now, by inattention on the part of the State, although the State loses so much, it would be far better to have some way of looking out after those frauds; it would be far better that the State should pass laws to give State lands, and swamp lands of any description and every description, to actual settlers, in preference to anybody else; and the State at the same time should look out that the United States gives to her every acre of land to which she is entitled under her grant, because every acre of land she gives up to the United States is so much land lost to this State, partly to the School Fund, and partly to the Fund for reclamation of land. Bills are pending for the State to give up its rights to certain lands. If the State sees fit to throw out one hundred and fifty thousand dollars or two hundred thousand dollars worth of land, it is the State's business, at the same time it impoverishes every citizen of the State by taxes. It is far better that the settler should get what he is entitled to; and let the State get everything she is entitled to. Now, in regard to lieu land for grants, it was said here that any quantity of lieu lands can be located. I don't understand the law that way. But three hundred and twenty acres of land can be located; and, as I said in my remarks in regard to the sixteenth and thirty-sixth sections, the same provisions of that amendment of the bill, with regard to the person who locates directly or indirectly, should apply, as to the sixteenth and thirty-sixth sections. The grant of the

one hundred thousand acres and the fifty sections are exhausted, and legislation on that subject would do no good. There are very few to be benefited in the one hundred thousand-acre grant. The Act is very short. In swamp lands, no legislation could be had in regard to the lands for which the State has already received the purchase money; and inasmuch as a contract exists between the State and the party purchasing, the same as between two private individuals, in reference to land when sold, it is claimed that many frauds have been committed. In that there is a great deal of truth, probably, and I think in regard to that, a good deal of the fraud lies with your County Surveyors. It is true there is a great deal of land in this State applied for as swamp land and overflowed land, and sold by the State as such, upon evidence of parties—of the Surveyor. But this was done many years ago, and prior to eighteen hundred and sixty-six. The “Conness Act of eighteen hundred and sixty-six,” as we call that, has confirmed all the purchases of State lands—of the lands purchased by parties prior to eighteen hundred and sixty-six. They make proof of that fact, and it is hard to get over them, inasmuch as the State has really made a contract with the parties; although it was wrong in its inception, yet they have made a contract with the parties, and the contract is pending between the State and the parties, and the United States has confirmed the action of the State in that matter, so it is hard to get at that. Hence, lands down in the Kern River country I see suspended, but I think it is hard to reach them now. They may be reached in the future, but yet now in making swamp land surveys they cannot be. And this idea of confining the man to three hundred and twenty acres will hardly do in some instances. I will tell you one. A very wide creek may run in a very irregular shape. You could not follow the right-angular system of surveying; and one creek might intervene, and you could not give a man three hundred and twenty acres in a square form, or one hundred and sixty acres in square form. You would have to follow a different system of surveying from the present. In other instances, we have such large tracts of swamp land that no single person, or half dozen persons, could reclaim, but it must go into the hands of some company; but it would be well, rather than have that, under stringent laws to do what they could. They say nothing has been paid for swamp lands. That is true in one sense, and not true in another. Therefore, that Act, that where parties have reclaimed swamp lands, they are entitled to recover back two dollars per acre; where they have spent two dollars per acre in reclaiming the land, they are entitled to recover back their purchase money, is correct. That tends to induce parties to reclaim the land.

Mr. Chandler—That is one of the best systems?

A.—Yes, sir, if carried out honestly; and one of the worst, if carried out dishonestly; but you must lay that to the lapses of the Board of Supervisors, before whom the proofs are made in your various counties. Now, something was said in regard to the swamp lands of Sierra Valley—of that case in the Sierra Valley. All of that land, nearly, except some thirteen or fourteen hundred acres, belong to the United States. They were speaking of that property—that there was an attempt to grab the Sierra Valley. Somebody was speaking of that in connection with Mr. Chapman; with that case I am familiar. Mr. Turner has introduced a bill in the Legislature which covers it; but the fact is that that was swamp land, if there was a piece of swamp land in the whole State of California; I have been over it when it was up to my waist, in the month of August; and those parties went in there and attempted to

take advantage; and — was on their side; the settlers made resistance; and was a good deal like it is in the case of Rob Lob; but I know that in that case Mr. Chapman, who had purchased from J. D. Goodman, of Plumas County, made an agreement with all the settlers that he would give them all the land they claimed at nearly what it cost him; that was the arrangement in that case to my positive knowledge; that is, if I could read an agreement signed fairly and squarely; and through the efforts of Senator Sargent, at Washington—while I was in Washington—the United States declared that land high land. Now, it would have been better for the settlers to have had that land declared swamp land, because, instead of paying a dollar and a quarter an acre, they would have got it for reclaiming it. Now, there was one section out of that whole valley—that whole eighteen thousand acres, in all—there was section seven which was claimed to be within the limits of the railroad grant, and although it was one section—of about four hundred acres—it was never taken away. The railroad company was a party to the action; and the railroad company employed their attorney there at Washington. They employed Mr. Baird, and I was very credibly informed while I was there, Mr. Julien, of Indiana, who was formerly a great man for the settlers; and the matter was fought for the railroad company; and the thing was defeated, so far as the State of California was concerned; and the railroad got what they claimed in there; and the balance was given to B. B. Redding, whose connection with the railroad company, perhaps, you know as well as I do.

Q.—General B. B. Redding?

A.—Yes, sir.

Mr. Higbie—Were there two surveys made of that land?

A.—No, sir.

Mr. Murphy—There are conflicting statements about that, are there not?

A.—Well, I will refer you to the Honorable Charles Washburne, formerly Minister to Paraguay. I was all over that valley myself in June, and I will tell you what I know about it. I read the testimony of that case, and Mr. Hardenbergh swore decidedly in making his decision; he made the statement that he had been all over the lands; and he said that at the time he went over them, he found them all high and dry lands.

Mr. Klotz—Was it the same year you were there?

A.—Yes, sir; and I know that when Mr. Hardenbergh went there over that land, and there was a great deal more water then, than when I went over it; and I know, when I went over there, I was up to my knees in the mud. I will tell you how that arose. There was a feud between Chapman and Hardenbergh, and you see what feeling there has been, and a lawsuit between him and Paige, and in the investigation there was a feud between him and Mr. Allee, who was formerly a confidential clerk and bookkeeper of Mr. Chapman; but, as I say, if it had not been that the settlers were inclined to think they would be driven out of that land, the State would have got it. Now, in regard to University lands, as I say, that has more than been exhausted. No State has ever done better with her scrip than California. Each of the United States has received thirty thousand acres, for each Representative and Senator in Congress.

Mr. Murphy—We want to ascertain if there are or were any frauds that you know of?

A.—I have told you, and that is carried on as it was, that can be laid

at the door of the United States Land Office. The United States Surveyor General's office, so far as the Registers and officers are concerned, I don't know anything. This has been conducted better than in any other State; they are more particular about the settlers than anywhere else.

TESTIMONY OF DAVID MAHONEY.

DAVID MAHONEY, called, sworn, and examined:

Mr. Murphy—State your residence and present occupation, Mr. Mahoney?

Answer—I have resided here for twenty or more years; in 'fifty-one I came here.

Question—Are you conversant with land matters in this State?

A —With private grants I have been somewhat connected, not with swamp land, or public demesne; I have had no connections with them.

Q.—Do you know anything about the conflicts between Mr. Hardenbergh and Chapman, in regard to land matters in this State?

A.—I knew of very unkind feeling between those men, and I knew at the time that Mr. Chapman was very kindly disposed to Mr. Hardenbergh, and it subsequently transpired to my knowledge, that he became very unkindly disposed towards Hardenbergh, and I, perhaps, could not have got any more positive assurance in the case than to give an opinion of my own that it was from a difference that existed between Mr. Hardenbergh and Chapman as to the Sierra Valley. That was called swamp land by Mr. Chapman, and was not so declared by Mr. Hardenbergh. Mr. Chapman dated his opposition to Hardenbergh from that fact, from the time that Hardenbergh declared the valley not to be swamp land. Now, if you please, gentlemen, to allow me, have you got a printed copy of the document? I was in White Sulphur Springs in June or July, where Mr. Hardenbergh wrote me a letter in reply, and if I recollect aright, the night I received his I wrote this in reply. It subsequently occurred that Hardenbergh and Chapman had ill feelings, and in writing the letter that I wrote to him I substantially recited the facts; as I recollect it, I think I made a short affidavit to that effect. I was not petulant when I made the affidavit; but Mr. Chapman wrote me a note, to my hotel, and requested that I should call and see him, and said if he was not at home, or in the office, he would refer me to an affidavit that he had made in reply to my letter. The note that he wrote me, inviting to meet him and see if we could not reconcile, if any existed, between what I wrote Mr. Hardenbergh from Napa, and Mr. Chapman's views of what had occurred between him and I. I felt, however, that when he invited me, saying that if he was not in the office that he referred me to his affidavit on file, that there must be something contradictory to what I had written in the letter, and I felt that that brought an issue between he and I; but how he became advised of my letter I don't know, for I sent to Hardenbergh without weighing the ultimatum of where it was to end. When I found there was an affidavit on file, imputing to me motives other than those I had been actuated by, I felt that Mr. Chapman had left no point for us to be reconciled upon, for he had deliberately filled his affidavit, stating that my motives

upon writing that letter must have been because the Surveyor General accepted of a survey of my ranch. That was not the fact, as Chapman knew. When Mr. Hardenbergh came in the office, the whole thing was approved and attested, and was only waiting for the patent.

Mr. Murphy—This difficulty arose from the Sierra Valley land matter?

A.—I think so.

Q.—Do you know, of your own knowledge, of him offering any money?

A.—I have only seen that letter once.

Q.—I will read the letter [letters of David Mahoney—Hardenbergh's answer, read].

A.—Well, you will see now that at the time that letter was written, I was familiar with the subject. I won't change anything. After this conflict, and when I found the importance of the letter, and what use was made of it, then I wanted to see it. I came to the office; there was a gentleman there, and he requested him to retire, and after his retiring, he and I got into conversation, and I told him if there was anything that I could qualify, I would do it, to get the letter, and I went with the expert, and he brought me the letter, and I then saw there was nothing that I could qualify, and I so said in a subsequent interview. Since that I have had no relations with Mr. Chapman, and no interest whatever in Mr. Hardenbergh, except the fact that I knew him to be a clever old Californian, and a man at the age of sixty, I thought, was too old to commence to steal. I have known him a long time, and I always found him a gentleman, and I know in my business with him in the office it was always done promptly, and a cent, or a favor, or a dollar, or an implied reciprocity, was never given or required. He is given to day to be a man that has been for a quarter of a century in California, and didn't get rich till after sixty; and that then he commenced to steal, I am very slow to think, or that he was apt to do it. I think we are perfectly justified in indorsing him.

Q.—Do you know of any frauds being perpetrated?

A.—I don't know of any of Mr. Chapman's operations, at all. I had no connection with him. I employed an attorney in Washington to get me the title. Mr. Chapman employed him after me, and Britton & Grey, and gave them two thousand dollars to get it, and they were in my employ, and the thing was all settled, except the red-tape forms used. In Washington, while the case was being agitated in the Courts—since eighteen hundred and fifty-seven—I bought in it in eighteen hundred and fifty-eight—I bought the ranch, and I have never been free since. I have had four or five suits, and I have one to-day.

Q.—Have you got any suggestion of any remedy that could be afforded by the Legislature for the public lands?

A.—Well, sir, I think you have responsibility enough. It is claimed this Legislature is the "simon purest" of the day, and I think when you get through with that, you will have accomplished all the people expect of you.

Mr. Higbie—Do you know of any frauds upon the Government in any of the old ranches; any frauds that you know much about?

A.—I don't believe.—I think I read a pamphlet taken in Sutter County.

Q.—You don't know anything of your own personal knowledge?

A.—The early grants? At an early day I knew of the ranch of Santa Barbara, and all the adjoining grants I believe were made and regularly confirmed. There may have been over—I think in one case that I read of, one was marked that more or less was put in: "poco mas ó minos."

Mr. Meyers—And still if fraud existed I suppose it would not be of such a nature as worth while to spend any time in investigating it, because there could be no good by legislation to correct anything of that kind. It is all of the past. These are all questions that you have reference to that are all settled now?

A.—I don't know of a grant in this region but what has been litigated. About the swamp lands I know nothing. I think that there has been more swindling in that branch of the land grabbing system in the State than in any other. Still I know nothing of it. That is my belief. I never was in the Sierra Valley, but I would be qualified to say that I believe Mr. Hardenbergh was sincerely, and honestly, and candidly honest in his decision. He told me that there was one hundred and fifty farmers, if I recollect right, that came and settled down in that valley, and he said that when the snow was melted on the surrounding mountains in the season it settled in the valley, and there was always some of it covered with water, but on the borders it was taken by the settlers. There was no dispute amongst the settlers. I think he called it common property.

Mr. Higbie—You know only from what he said?

A.—Yes, sir; and what was reported to Mr. Chapman. I think he was determined to have that, and I know his most intimate friend, Gurnee, said: "I wish you would see Chapman. He will do more for you, and I think it is a foolish fight." He came to me afterwards and said: "Mahoney, I am determined to press things to an issue. I am determined. This man has to go out." Said I: "If you drive him to the wall and put him out I will have nothing to do with it."

Mr. Meyers—He expressed his determination to have Mr. Hardenbergh removed?

A.—Yes, sir; on account of his decision in the Sierra Valley matter.

At four o'clock and fifteen minutes P. M., the committee adjourned.

FOURTH DAY'S PROCEEDINGS.

TUESDAY, February —, 1874.

TESTIMONY OF FREDERICK A. HYDE.

FREDERICK A. HYDE, called, sworn, and examined:

Mr. Murphy—Mr. Hyde, you will state your name, place of residence, and present occupation.

Answer—My name is Frederick A. Hyde; age, twenty-six; I reside in Alameda County; my present occupation is attorney for land claimants; at the same time I am in business in the city with the firm of Sherman & Hyde.

Question—I suppose you are well acquainted with the mode of obtaining possession of lands under the different laws of the United States?

A.—I am.

Q.—Do you know anything about any frauds that have been perpetrated in late years in the location of lands or acquirement of lands?

A.—I don't think of any frauds now. I hardly know what you refer to. I don't know of any frauds. I know of nothing of the kind.

Q.—Any wrongs perpetrated on the people, either through the fault of the law or through the fault of individuals?

A.—I think our laws have always been defective, particularly the United States laws; more particularly in grants to railroads, and grants for such purposes. I have always held those to be defective indeed.

Q.—Do you know anything about this Sioux or half-breed Indian scrip—Chippewa—and the extent to which it has been floated upon land in this State?

A.—I don't know the amount. I know when I was connected with the Land Office, that there was quite an amount located. The books will show.

Q.—Under whose possession, as a general thing, was this scrip held in this State?

A.—William S. Chapman.

Q.—Did you ever examine the powers of attorney from those half-breed Indians to him?

A.—Yes, sir; I examined them when they were presented for location.

Q.—Did the signatures appear genuine? or have you any knowledge that they were not?

A.—At that time I had no knowledge but what they were genuine. I had never heard them questioned at that time. It is only from recent developments that it occurred to me that they were not. But of my own knowledge, I have never investigated it.

Q.—Of your own knowledge you cannot answer now, whether they were genuine or not?

A.—I cannot.

Q.—Are you acquainted with the lieu lands of the State, and their modes of location—lands in lieu of the sixteenth and thirty-sixth sections?

A.—Somewhat.

Q.—Do you know anything wrong about them, or about parties acquiring them?

A.—Strictly speaking, there is no such thing as acquiring lieu lands. The only acquisition is in the lands that are located by them. I know of no way of monopolizing lieu lands. The only way to hold lieu lands at all, or to make a lieu land location, is to locate a piece of land which then ties up that particular piece of lieu land. But I know of no way of monopolizing lieu lands.

Mr. Klotz—But is there not a law that no person can enter more than three hundred and twenty acres?

A.—Yes, sir.

Q.—He can use other names, then; that is, they do use them?

A.—Yes, sir.

Q.—And that way they could not monopolize?

A.—I don't understand whether you refer to monopolizing the land or monopolizing the lieu land. By lieu land, I mean the basis of selection. Parties have located considerable land, as you are aware, in that

way, and for the purpose of acquiring land that is done. I do not refer to lieu land, but to the land that they have selected.

Mr. Murphy—Do they select in lieu of the sixteenth and thirty-sixth sections?

A.—Yes, sir. I have known parties, before the Code was changed, to file large applications. Since that, of course, the Code don't allow it.

Q.—In what respect do you consider the principles of the law relating to lands defective and injurious?

A.—Do you refer to the United States law?

Q.—No, sir; the State. Are there any particular defects?

A.—No, sir. I am opposed to all grants of land, for any purposes, by the United States. I think the United States should keep her lands for settlement, and that when any new grants, if it becomes necessary to make them, should be made, donations of the proceeds of the sales of these lands should be made, instead of the lands themselves. If the United States had always adhered to one system, instead of the railroad company having millions of acres, they would only have taken the proceeds, as they were sold to actual settlers.

Mr. Meyers—Have you had any connection with the so-called lieu lands?

A.—Oh yes, sir. As an attorney, I have had occasion to make locations.

Q.—You are not so familiar with it as to form any estimate as to what the result would be to the people of the State—whatever sixteenth or thirty-sixth section is covered by special grant is lost to the State, and swamp lands and overflowed lands?

A.—Well, swamp lands are not lost to the State.

Q.—They do not get it as school lands?

A.—That is a question which I have heard raised. It is a very doubtful question. I have heard the proposition. It is a very doubtful question, whether the State could have indemnity for lands that she gets.

Q.—As the case now stands, don't you think the applications are in excess of any locations? Is it not likely to be so?

A.—They would be in excess but for one thing. When Wilson was Commissioner, he decided that the Act of eighteen hundred and sixty-six did not apply to selections where the lieu lands were bad. But Mr. Drummond reversed that decision, and decided that the Act of eighteen hundred and sixty-six confirms all selections, if there was a bona fide law made by the State, without any reference to lieu lands. Well, that has validated a large part of State selections that otherwise would have been invalidated, so that I do not consider that the amount of illegal locations now held by the State would amount to a great deal. I don't think a great many. Of course they come in here and there.

Q.—I have no reference to legal locations, but to illegal locations?

A.—I mean illegal, so far as the United States is concerned. The illegality consisted in bad lieu lands.

Q.—What I mean is, the State is entitled to certain land in lieu of those lands that are covered by the United States law at the present time. We are entitled to other lands in lieu of the sixteenth and thirty-sixth sections covered by Spanish grants. So with mineral land, to say nothing of swamp land, as that is a question. Is there not an excess? Are not the number of locations in excess of any lands that we can ever claim of that character as falling to the State?

A.—Oh, no; I do not think so; I think there will be far more lieu lands coming in, in the future, than we need; but I think there are, at

present, more locations made than there are lieu lands to satisfy them, at present; but the lieu land is coming in all the time; it is created all the time; it is never exhausted, like the five hundred thousand-acre grant, because there will always be a little here and there coming in: new fractional townships surveyed, that entitle the State to indemnity which she was not entitled to, and new settlers going on sixteenth and thirty-sixth sections. It is not a grant that can be exhausted at any time, because it is always coming in—the lieu land is.

Q.—I understand that if any one wishes to claim lieu lands at the present time that they have to pay a fee of anywhere from one dollar to three or four dollars, simply for information upon the subject, when the price of land is only a dollar and a quarter. That would show—

A.—[Interrupting.] That is simply a fee for knowledge; it is simply a fee for knowledge. Now, some parties will look over the records and be the first men to find out that there is a certain deficiency. There is nothing to prevent the State from finding it out—or any other man. There is no man that has any advantage over any other. There is no royalty in lieu lands; but a man finds out and says, “I know where there is a piece of land that the State is entitled to, and, if you will give me so much, I will tell you.” It is no royalty or property.

Mr. Murphy—The knowledge is open to all who seek to acquire it?

A.—Yes, sir; anybody who has the information; of course it takes a certain amount of information and knowledge to learn these things.

Q.—Don't it require some collusion with the officers?

A.—No, sir; I don't see how, because any person can go to the Surveyor's office and see if a grant covers the land, or in the United States Land Office, and see if a selection is made for that.

Q.—Can anybody go to the Surveyor General's office and ask for the information, and receive it?

A.—I don't see why they cannot.

Q.—I know that is supposed to be the case, but is that actually the case?

A.—Well, I have always found it so; I write up a letter and ask if a certain piece of land is taken, and I have always got an answer.

Mr. Higbie—Do you know whether, at any time within the last year or year and a half, more or less, of any person paying the present State Surveyor a thousand dollars for such information?

A.—No, sir.

Mr. Meyers—They do not, then, give their information free to an applicant?

A.—Well, I don't know; you write a letter and inquire about a certain matter; I suppose they do; they ought to.

Q.—There is no question about that.

Mr. Higbie—We want to reach that point. A certain party wishing to get information in regard to some lands—his own and some one else's, perhaps; it is said that a thousand dollars had been paid for the purpose of getting such information, though there was no need for it to have been paid unless there was collusion—if you choose to use that term—on the part of the Surveyor General. I want to know if you know of such a thing, either personally, or of any other person having connection with such a thing?

A.—I never had to pay for any information I got there; when I want a point I write up: “Honorable Surveyor General, will you have the kindness to inform me how your records show”—for a certain piece of land.

Q.—Have you any knowledge of the location of any lands in the San Joaquin Valley, either by scrip or otherwise, through Mr. Nye, or any agents of his, and the mode, or what the mode of such location was?

A.—No; not personally. The first I ever heard about it was when I saw it published in a pamphlet.

Q.—Personally, you know nothing regarding that?

A.—No, sir; I was never connected with the Stockton office.

Q.—Did you ever have any transaction of business with any other parties in the office, and, if so, whether did you find any irregularities?

A.—In the Stockton office?

Q.—Yes, sir; or in any Land Office that you had occasion to visit or find letters or marks or such like, upon such pieces of land, to prevent A, B, and C, making locations, if they desired so to do?

A.—I never transacted any business in the Stockton office until within a year, and Mr. Carter was then Register, and I found no difficulty. I always found it a well regulated office in every respect. I think that the Stockton office is a very well regulated office at the present time. I never found anything but the most gentlemanly treatment there. With Mr. Nye I never had any business.

Q.—There was a clerk in the office, though, did take advantage?

A.—So I understand, from hearsay, merely; I didn't know the gentleman.

Mr. Murphy—Are you acquainted with this matter in controversy between Mr. Chapman and Mr. Hardenbergh? Have you read the statement of either party?

A.—I have read the pamphlet; yes, sir.

Q.—Do you know anything about this Sierra Valley—taking up swamp land?

A.—Only as I read it in the pamphlets. I do not know what the merits of the case are; I have never read the case.

Q.—Do you know anything about Indian Valley, Plumas County?

A.—I know nothing about it.

Q.—Do you know the amount of land in the State that Chapman owns or possesses?

A.—No, sir.

TESTIMONY OF H. G. ROLLINS.

H. G. ROLLINS, called, sworn, and examined:

Mr. Murphy—State your place of business, and your business.

Answer—I am Register of the United States Land Office, of San Francisco District, and have been since June first, eighteen hundred and sixty-nine.

Question—Have you any knowledge of any frands being perpetrated, in the selection of land in this State, since your term of office, or before it?

A.—No, sir; no; I have no knowledge. I could not state any particular thing that I know; no particular case. For instance, in the matter of Chippewa scrip, I do not think there was ever any authority for locating a piece of it in this State.

Q.—Do you know the extent to which that scrip has been located—the number of acres?

A.—No; I do not.

Q.—Could you approximate to it any way?

A.—No, sir; I could not.

Q.—Do you suppose it amounts to thirty thousand acres?

A.—I think that it was a larger amount.

Q.—Is this Sioux scrip in the same condition, in your understanding, as the Chippewa?

A.—No, sir. The Sioux scrip and Chippewa scrip differ from each other in this respect. The Sioux scrip was issued; a certain military officer went out and made a treaty with the Indian tribe, and it was said in this treaty that the Secretary of the Interior should prepare requisitions, under which the Commissioner to issue scrip. But there never was any Act of Congress. The theory of Congress has ever been that the public domain could only be disposed of by Act of Congress, and you could not dispose of it by a treaty. But there was an Act of Congress, with reference to Sioux scrip, authorizing the issuance of the scrip, and the location of it.

Q.—Four hundred and eighty acres to each half-breed, Lake Pepin?

A.—Three hundred and twenty, I think it was; was it not? Most of those scrip locations were made before my time, when I knew very little of land matters.

Q.—Has there been any Chippewa scrip floated in the State on land?

A.—Yes, sir; immediately after I took charge of the office, a very few pieces.

Q.—Was that in accordance with the ruling of the Land Department, at Washington?

A.—Yes, sir; very little, though.

Q.—Do you know anything about the location of lands, in lieu of the sixteenth and thirty-sixth sections, reserved for school purposes?

A.—No, sir; no further than I know of that officially. When I took charge of the office I tried to prepare a book in which I should have stated all the lieu land that had been used in my district, in order to prevent the locating of it twice, if I possibly could.

Mr. Meyers.—Do you then know of every tract of lieu land that has been located in your district?

A.—Yes, sir; I know every lieu land location that has been made in my district.

Q.—You have no means of knowing whether that is the practice in the other districts?

A.—No; I have not. I have never had any connection with the other districts, except that Mr. Carter, I think, he adopted the same method. I am not sure about that, I know I talked with him about it, and I think he did, at any rate—

Q.—[Interrupting.] Do you know anything about the extent of Mr. Chapman's land operations in this State?

A.—No, sir; I do not. I know he owns a great deal of land; but as to the amount, I don't know.

Q.—Do you know anything about him acquiring title to the land here, from this Chippewa scrip?

A.—No, sir. No further than this: that those locations were listed over to the State; and patents sent there to his attorney, in Washington; and sent to him without going through the office.

Q.—Do you know anything about the Sierra land matter, in which a controversy arose between Hardenbergh and Chapman?

A.—No, sir. Nothing further than in Hardenbergh's pamphlet.

Q.—You know nothing of your own personal knowledge concerning any improper means being used in the acquisition of title to any land in this district, or any other in the State?

A.—No, sir.

Q.—Could you suggest any remedy for the evils of land monopoly, to the committee, or to prevent it in future?

A.—I don't see any, except to restrict it in quantity. It is like locking up the stable after the horse is stolen. If we had taken this thing in hand some time ago, it might probably have afforded some remedy for the evil.

Q.—What is your judgment with regard to the location of lieu lands? That is, in this respect, has not so great an amount been located already, that there is great danger that even some of the first locators will get ruled out; because subsequent locators will take possession of all the land that will be available to the State; would it not be advisable to pass a law forbidding any more locations at all; until such time as all locations made by really bona fide locators are satisfied?

A.—Well, there is no danger of anything of that kind in my district; because they are all the time surveying townships in which there is Spanish grants, and wherever a section comes in, there is two sections of lieu land; for instance, if there is two sections coming in the Spanish grant. So, in this district, there is really no danger of that. But I should think there might be in districts where there was no grant. But this district comprises counties up and down the coast, several of them unsurveyed and unreturnable. In this district, however, there is no danger of it. I think, myself, they ought not to have been allowed to locate a sixteenth or thirty-sixth section, or land in lieu of a sixteenth or thirty sixth section, without responsibility; and that it should be given to the settler, or perhaps to the genuine settler. I do not see any propriety to allow a man living in San Francisco to make application for a dozen sixteenth or thirty-sixth sections, and never live on, or see them. That ought to have been stopped a year ago.

Q.—The mischief has been done?

A.—Yes, sir.

Mr. Murphy—This land monopoly will hinder immigration more than anything else. It is more injury to the State?

A.—It is a great curse to the State, and to the country.

Q.—Do you know anything about the timber land of the State?

A.—No, sir.

Q.—The quantity of acres claimed, etc.?

A.—No, sir. They have allowed under rulings recently; for the last several years—allowed preëmptors to take it.

Mr. Klotz—Without cultivating it?

A.—Yes, sir; there was a decision rendered in Humboldt two years ago. Then there was a case in the Sacramento office where they allowed a man to locate a preëmptor's claim, where it was for a rock quarry. That seems to be the present ruling. Something ought to be done to prevent the cutting of the timber by parties who have no right to the land, or some method by which they could acquire a title.

Mr. Murphy—Don't you think, under the law as it now stands, parties are prohibited from cutting timber?

A.—Certainly. There is no doubt about it.

Mr. Klotz—How are you going to do where you cannot get a title, and you have to have timber?

Mr. Murphy—Can't get it.

A.—I must confess my opinions respecting timber land have changed very much. I am very strongly inclined to believe that the sooner the Government sells its timber lands, the better for all parties concerned; provided, some method could be adopted by which those lands could not be monopolized. If the timber lands could be disposed of to parties who would cut the timber for legitimate purposes, rather than buying up immense tracts of it, and holding it for speculation, I think that would be the wisest way.

Mr. Higbie—Do you know anything further about it. Did you ever, personally, or through any other way, know of any money being paid to any State officials, Surveyor General, or any one else, by which scrip of any sort has been improperly located?

A.—No, sir; never.

Q.—Do you know where any money has been paid in any instance to secure information from any of these State officers?

A.—No, sir; I have had occasion to write to Mr. Bost and Mr. Gardner. Of course, they were always official letters, to make inquiries for parties. For instance: a party would come into my office to prove up his claim, and he would ask me to write to the Surveyor General. From Mr. Bost and Mr. Gardner I always received prompt answers. I never had any other business relations with them. I never had any business relations except in that way.

Mr. Meyers—How far south does your district extend?

A.—It takes in ten townships in Santa Barbara County.

Q.—Along the coast north?

A.—It goes along the coast to nearly the center of Mendocino. It leaves the northern portion, and strikes along the northern end of Mendocino County, in Humboldt District.

TESTIMONY OF CHARLES H. CHAMBERLAIN.

CHARLES H. CHAMBERLAIN, called, sworn, and examined:

Mr. Murphy—State your business and place of business?

Answer—I am Receiver of the United States Land Office, living in Oakland at present. United States Land Office, San Francisco District.

Question—Are you conversant with the mode of acquiring and obtaining possession of land in this State?

A.—Yes, sir.

Q.—Have any cases come under your knowledge in which any fraud or improper means have been used to obtain any title to any lands—United States or State lands?

A.—Well, I don't know about fraud. There are cases where patents have issued at the time, and where lands have been listed over where they ought not to have been.

Q.—State some of those cases?

A.—Many of those were probably mistakes, on account of the track books at Washington. The first time any patents were issued after I came into office, after eighteen hundred and sixty, was on some Chipewewa or Sioux scrip up in Mendocino County, where the Albion grant is.

The land was surveyed and put in the office. I think just about three months expired—or at any rate before the time for preëmtor's filings had expired—or at least while our books showed preëmtors' claims. They had run back with the scrip locations. The patent came on. He looked them up in there, and I refused to deliver them, and wrote to the Commissioner and the Commissioner sustained our action, and they were not delivered, at least until after the preëmtors themselves had either abandoned the land or their claims had been withdrawn.

Q.—Who were the parties that obtained the patents?

A.—Well, the locations were made by Mr. Chapman, previously, in the interest of the Indians, of course, for the scrip is not assignable. He made them as the attorney-in-fact for the Indians.

Q.—Do you know, of your own knowledge, whether those powers of attorney were genuine or not—signed by the Indians?

A.—No; they purported, of course, to be genuine, but we knew nothing about that. In fact, we did not certify to that. We struck off that portion, that it was located by the party entitled, because we had doubts whether there was any real right to locate them in this State or not.

Q.—Do you know about the extent of locations of land under this scrip in this State—about the number of acres?

A.—No; I could tell at the office.

Mr. Meyers—You could tell, so far as your own office is concerned?

A.—Yes, sir; but I couldn't tell anywhere else. My impression is that the most of that was located in this district. I don't know about that; but there was not much land in this district, and it had not been surveyed as much as the other districts—that is, as much as the agricultural districts, and we were obliged to do something of the kind to get possession of the land, rather than buying it at a private entry, and there was not much land subject to private entry. This was almost altogether used at San Luis Obispo. Again, after that, when the lands of the Southern Pacific Railroad were restored, there was a location made the same day. The land was restored on the nineteenth, and the scrip location made down in Santa Cruz; and the said locations, that had been illegally made, were rejected, in a long list, on that day, and both were made within a half an hour of each other; but the scrip locations and the patent which were in the trial had been made by scrip. It appears that at that time the General Land Office had not enough force to attend to the business of the office and keep their track books written up. Our State locations appear to have been there, and were not placed upon their track books; and afterwards the Commissioner ordered an investigation into that case, and it was decided in favor of the State location, and the land was listed to the State in order to place the State in a position to fight the scrip location in the State Courts. In one or two of those instances—several instances, but not where any great amount of land has been, that I recollect of now—land has been listed where there was a preëmption claim, and I think in most of those cases that had been where the mistake was, in not keeping the track books written up, or where the preëmtor's alleged statement appeared to be subsequent to the State location; although over here in Livermore there has been several of those men, and the preëmtors raised the question whether the Act of eighteen hundred and sixty-six cured those selections that had been illegally made in the first place; and while the case was going on in this office they were listed over, and that took the jurisdiction away from us; but in all but one or two the Department have opened the cases, and have ordered us

to proceed and adjudicate them. There are two or three cases not ordered back; in two or three cases—several other entries by mistake, apparently—they listed land over where preëmtors seemed to have a prior right, and in most of the cases approved it. In those cases, however, the Department ordered or requested the party to return the land—to release the land until the preëmtor could be heard, and then he has been allowed to enter wherever he was on. I think there was more than that while the State had an agent at Washington, than there is now. Before that the attorneys made out a list of the State selections that were clear, and did not conflict with any one, and then had it surveyed and sent on to Washington. So it ran the gauntlet of both Houses where there was any adverse claim, and if they wanted any other land listed they had to summon in the opposing parties and have those claims examined. That was the best way to do, because under those circumstances everybody has a chance to be heard.

Mr. Higbie—Did these difficulties arise, in part or in whole, from improper locations in scrip, illegally taken, or was it a difficulty existing as a kind of conflict between the Federal and State law?

A.—No; so far as the scrip was concerned, it arose from their not having their books posted—most of those mistakes. The books never were posted for a year, or not until Drummond came into the office. There was not clerical force sufficient in the office to keep the books up, and their office was a year behind us; and we report every month. But they had last year an increase in their force, and I believe they have caught up now. That was year before last.

Mr. Meyers—The mistakes were caused by their books not being posted up?

A.—I think a great deal by their books not being posted up. A man has charge of different departments. A man in the State Department comes and looks at the application and sees no conflict, and he certifies it is correct. And then I think that in several of those instances, where it came under the Act of eighteen hundred and sixty-six, the question arose as to whether the locations were made in conflict with the State laws. If there was any little defect in it that might not pass here where we were acquainted with the State law, then they have got to consider it there, in order to keep track of the evidence.

Q.—That is a good deal like settling a man's account from the ledger, where his books were not posted up.

A.—Yes, sir; and carrying it over from here, where we understand what the State law is, to Washington. For instance, selections made after eighteen hundred and sixty-three, up to eighteen hundred and sixty-eight, a man was obliged to take an oath of loyalty, which vitiates the whole thing. That, of course, at Washington they knew nothing about. Here the Supreme Court decided it was absolutely necessary, and decided some other points upon that question. But there have not been very many of those cases. There was some tracts in Livermore Valley that was listed there. The odd sections were where the railroad, perhaps, would be entitled to be. I don't know what the defect was, but those were listed over without being examined. I mean they could, under the Act of eighteen hundred and sixty-six. The Department reviewed the testimony there and did not look at it here. They were illegal, because they were made on double minimum lines. It was so held by the Department; but, of course, the law does not clearly require

it—only holds that the Government of the United States shall not give two dollars and fifty cent-lands for one dollar and twenty-five cents.

Mr. Murphy—You do not know any instances where land has been acquired fraudulently, or by forged powers of attorney, or anything of that kind?

A.—No, sir; I know nothing about that, at all—about powers of attorney in those scrip matters; they were all under orders forwarded to Washington; we had no power or way to determine.

Mr. Meyers—What do you know of the situation of the so-called lieu lands?

A.—Well, the State has always been very liberal with making selections under any of its grants, if you let them make their selection.

Q.—Do you think the selections already made are in excess of the land?

A.—I think they are in this district; but then there are a great many State selections that must fall out on account of conflicts with pre-emptors; a great many that are illegal from the fact of their being made on double minimum lines. But I am inclined to think that this State will not have more than enough, if she has enough, to make up her selections that would be good.

Q.—What do you know of the list of selections from the United States Government to the State? Have they been listed in their order? or in what situation they are at the present time?

A.—No; the locations made among the first, some of them are not listed. But they could not always go according to their order, because there may be conflicts. The lieu lands might be in Spanish grants not finally determined, and the United States could not always determine whether the State was entitled to a selection in lieu of that land. Then the conflicts in a great many instances have not been determined. But then I think there are a great many selections that lie there, that have never been listed, that there is nothing to prevent their being listed, so far as I know, where lands that have been recently located are already listed there.

Q.—Has it been your impression, or have you any knowledge of your own, or did you receive the impression that the lands that have been applied for lately have to a greater extent been listed to the State than of earlier applications?

A.—Well, I could not tell, without looking at the land to see. In some cases, the State locations were made upon double minimum lines, and the selections would be held by the Department as illegal. In a month or two, the same lieu lands would be applied for by the minimum lines, the State would be entitled to it, and then the land might be restored, as under the Act of October nineteenth, and the State would make a reselection. Well, sometimes those selections would be listed, and sometimes I know where the first location was made upon single minimum lines, that it was one that could not be held. But at that time there was no way in the Land Office to determine. Finally we made up a ledger account with the State, so that I could tell when the selected lands upon the sixteenth or thirty-sixth sections, and if the selection was good, and since that, we have never allowed the State to make a selection. If she was entitled to other lands, we would not allow her to make a selection of that land for any lieu land. So, for the last two or three years, we have kept this district straight. I don't know whether they have ever done it in the others. It would require a great deal of work.

Mr. Meyers—Would it not be well for the State really to send an agent there, to see after our interests in the case of these selections?

A.—I am afraid he would be more a private party than an agent of the State.

Q.—There is no doubt he could do more injury than good, if he was disposed in that way.

A.—In the first place, there are very few men that understand these matters at all. It requires some little insight; and if they pursued the course they always did here before an agent appointed—let parties make up their list, and have it certified here, then, of course, if you had an agent, then you might approve it. Coming to see Mr. Polack, I remember another case; that was the Geyser Springs, where, I think, there was a Sioux scrip patent; it didn't come to us, though. It was issued on the State location, and the land was surveyed, and the State location was made, claiming under the Act of eighteen hundred and sixty-six, which gave him the right of the preëmptor, carrying it back to the Sioux location—and the Sioux location, I think, was patented—the map was suspended and placed upon the record. I think that the record shows it; and the State selection appears upon the record as two or three days, as it were, later than the scrip location, that being under the Act of eighteen hundred and sixty-six. That would not be shown upon the record. So it would appear from that, that the scrip location had the advantage, and they having no notice at Washington from the Surveyor General's office that the map had been suspended, they seem to have issued a patent upon the office record, one being subsequent to the other. I have got my ideas about those Acts of eighteen hundred and sixty-six—that they do wrong when the State makes an application for a thing of that kind—there should be an affidavit on the part of the parties, that they were purchasers in good faith, under the Act of eighteen hundred and sixty-six, in addition to the application of the State. That was not done—and in substance only, in one or two instances. The State makes her application, as in other cases, and when they come to prove up, they prove those patents; and it leaves the record in such a state that it does not disclose upon it the actual state of facts. There was another course: where scrip locations were laid upon the Town of San Juan, and the map was suspended on account of conflict with the grant, and a patent came out for a portion of the grant, which the scribees, I think, sold to the town.

Mr. Higbie—What scrip was that?

A.—I am not certain whether Chippewa or Sioux scrip. Those are all the instances that I know of. Those, I think, or most of them, came from the record not being written up.

Mr. Bullock—I want to ask Judge Chamberlain if this letter was addressed to him by Joseph S. Wilson, then Commissioner of the General Land Office, as Receiver? Would you allow me to show it to you?

Mr. Murphy—Yes, sir.

The Witness—I suppose we have a copy of that at the room, there.

Mr. Bullock—You have reason, Judge Chamberlain, to believe that to be correct?

A.—Yes, sir. I could not tell, of course, without going to the letter department. I know we received some letters in reference to these matters, giving us notice.

Mr. Bullock—Will you please, sir, to make a mark inside of it, if you please; or your initials. They say that they had no notice of it. We

had no orders to give them notice when the conflict is pending, because the records show if the conflict is pending in the office.

Mr. Higbie—What is the object of this?

Mr. Bullock—I am called here, sir, as a witness, and this forms a portion of what I would state; and I wanted to get the confirmation of the Receiver here present, as to that being what he asserts it to be, a substantial copy.

The Witness—I could not tell, of course, unless I compare it.

Mr. Bullock—You believe it to be substantially correct?

A.—I think it is.

TESTIMONY OF LEANDER RANSOM.

LEANDER RANSOM, called, sworn, and examined:

Mr. Murphy—State your name, residence, and place of business.

Answer—My name is Leander Ransom. I reside here.

Question—What is your business?

A.—I am engaged in land matters—land agent.

Q.—Are you conversant with the land laws and modes provided for acquiring and obtaining possession of lands in this State?

A.—Yes, sir; I think I am; I was locating agent for this State for ten years, for the school lands, until eighteen hundred and sixty-eight, and I have been practicing in land matters since, more or less.

Q.—Do you know of your own knowledge of any frauds or improper means being used by parties in the State for obtaining possession or acquiring title to lands in this State, under United States laws or State laws?

A.—Not to my knowledge. There is a difference of opinion about the right to select lands, or at least to locate them. But I don't know anything of my own knowledge that has come within my purview.

Q.—Are you acquainted with the Sierra Valley—the lands situated in Sierra Valley?

A.—No, sir; I am not.

Q.—Or Indian Valley?

A.—Only from what I have seen in the papers.

Q.—You know nothing of your own knowledge; your own personal knowledge or observation?

A.—No, sir.

Q.—Have you done business in the Stockton Land Office?

A.—No, sir; only in this. This is the only district.

Q.—Are there any statements you wish to make to the committee in regard to land matters, touching frauds, land manipulations, or any suggestions to make, or any remedies to be afforded by the law as it now stands?

A.—Well, it is too late now to do much in that way. You can't do much in that way. It is locking the door after the horse is stolen.

Q.—Well, is all the land in the State of California at the present time occupied or claimed?

A.—No, I presume not; not half of it.

Q.—Are all the grants from the United States to the State occupied or claimed; all the lands under those grants?

A.—School lands? No; there are a great many school lands that are not located yet; not many in this district, but in other districts a great many of the sixteenth and thirty-sixth sections. There are very few, I presume, that could be taken. I presume what we call lieu lands, they are pretty well absorbed.

Q.—Those taken in lieu of the sixteenth and thirty-sixth sections?

A.—Yes, sir; the lands that are in lieu of them, where the State cannot get the sixteenth or thirty-sixth sections, and therefore they take those lands in lieu, and I presume such lands are pretty nearly absorbed.

Q.—Do you think there is more application for those lieu lands, so-called, than there is lands to fill the application?

A.—No, sir, I don't know that there is, for there are a great many that won't be confirmed, and therefore those lieu lands will be used in other cases.

Q.—Do you know anything about parties paying a royalty for obtaining information in regard to those lieu lands—paying so much an acre for the information in the Surveyor General's office, or any other office?

A.—That has been done by the land agents generally. Those that have anything to do with it have charged something for it ever since the law was passed abolishing —

Q.—[Interrupting.] Do you know anything about any State officer charging anything?

A.—Not to my own knowledge, I do not. You see the locating of school lands was given to the Surveyor General in eighteen hundred and sixty-eight—May, eighteen hundred and sixty-eight. Locating agents are all abolished, and it was given to him then. Every man who knew anything about lands, and a great many that didn't, became a locating agent, really to locate his own lands, and if he wanted lieu lands he sometimes paid something for the information. I don't know of any officer that has charged anything in that way—not to my own knowledge.

TESTIMONY OF J. S. POLACK.

J. S. POLACK, called, sworn, and examined:

Mr. Murphy—State your residence and your present occupation.

Answer—I have resided in San Francisco for the last twenty-three years, consecutively.

Question—What is your present business?

A.—I am a real estate agent.

Q.—At present residing in San Francisco?

A.—Yes, sir; have always been, sir, for the last twenty-two years.

Q.—Are you conversant with land matters in this State?

A.—Well, principally in matters connected with my own affairs, only, sir.

Q.—Do you know anything, of your own knowledge, of any frauds being perpetrated in obtaining possession of lands, or acquiring title to them, under the State or United States law?

A.—I have heard of a great number of cases, but they are simply hearsay; hence, any evidence on my part would be useless. But I can give some facts connected with my own affairs, and especially with re-

gard to a property known as the Geyser Springs property in California, situated in Sonoma County. As a preliminary I would state that on the twenty-first of April, eighteen hundred and fifty-four, a person named Archibald C. Goodwin, located two school warrants—numbers two hundred and seventy and two hundred and seventy-five—for three hundred and twenty acres each, on a location, known since, and known at the time, as the Geyser Springs, situated in Washington Township, Sonoma County. The party who sold us the land, afterwards purchased what we term in this country, a squat, and he took possession of the place under a squat. The party who sold first—Goodwin sold it, and Louis Livingstone—afterwards squatted on the property, on the supposition that in that early day, 'fifty-four or 'fifty-five, that school land warrants would not stick, to use a phrase we use now. At that time the Supreme Court had not decided on the question of school land warrants. They finally decided the matter in the case of *N———* versus *Jackson*, and *N———* versus *B———*, which decided those matters in eighteen hundred and fifty-nine. The Commissioner, at that time, was a Mr. W. W. Pratt; to whom I represented the facts, and he commenced suit against the party then in possession, in the Seventh Judicial District Court, for Sonoma County, and he gained a judgment in his favor. He never afterwards purchased the school land warrants, but by deed of grant, bargain, and sale. In December, eighteen hundred and sixty-two, I sent up the school land warrants, which I have mentioned, for cancellation, and he issued to us certificates of location, number one hundred, certificate of purchase, number one hundred, and certificate of location, number eight, Sonoma County. In eighteen hundred and fifty-nine the Legislature made a law of some three or four lines, making certificates of purchase, or of location, *prima facie* evidence of right of title and possession. In the latter end of 'sixty-three, up to 'sixty-four, some Acts were reenacted, also in favor of certificates of purchase and location. That is all I have got to say with regard to it, except that in eighteen hundred and sixty-three the wife and myself, under a writ of restitution in Pratt's case, took possession of the property, and were reinstated there, and from that time up to eighteen hundred and sixty-nine were there by ourselves, and tenants on the Geyser Springs property. In eighteen hundred and sixty-six—I think I need not mention to you gentlemen about the Act of Congress.

Q.—The Conness Act?

A.—I presume it is the Conness Act—the Act of July twenty-third, eighteen hundred and sixty six. That confirmed our location, and gave us the rights of preëmtors, as has been mentioned by Judge Chamberlain. We then employed Mr. Ransom, who was Locating Agent, to locate the land for us, and Mr. Ransom made the application for us as preëmtors. That is all I have got to say of the property; I was obliged to state that, incidentally. About the end, I think, of eighteen hundred and sixty-six, a person called at my office, at four hundred and twenty Montgomery street, and asked me if I was the owner of the Geyser Springs property. I told him my wife was the owner; I was acting for her, consequently we were the owners. He asked what title we had. I told him school land warrants, and ultimately we had received certificates of purchase and location. He asked me if I thought that was sufficient. I answered, it was sufficient until the United States surveys the property—until the United States should survey the property; then of course, we should get our patent. That is under the laws of the State and of the United States. He said, "You will be mistaken,

and there is only one way you can get your patent, and that is by purchasing Sioux scrip." I asked him who was the owner of the scrip. He said, "I am the owner of the Sioux scrip, and I can let you have Sioux scrip. You have got how much land?" "Six hundred and forty acres." "Well, I can let you have it." I said, "We are perfectly satisfied with our claim. We paid the State, in eighteen hundred and fifty-four, for the school land warrants, two and a quarter dollars an acre, and we are simply waiting for the United States to survey the property, so that we may get our patent." He said, "Well, you will find yourselves mistaken. But you can have our Sioux scrip." "At what rate?" "Five dollars an acre." I told him I didn't want it. I frequently tried to get the land surveyed by the United States or under authority of the United States. I was introduced to the United States Surveyor General, and asked him if he would allow me to have the land surveyed; that I would pay for the survey, and didn't want the United States to pay for it at all; if they would only give me the leave to have it surveyed under a deputy of their own. He wrote me a reply, which I have not about me, that the United States could not become a debtor of any party. He himself, as Surveyor General, had no money to survey those lands, and under those circumstances, the lands could not be surveyed until they received a grant with which to do it. I tried, by letter, to change his views—that I did not want to become a creditor of the United States; but I would pay the expenses, and it should be ended there. But he would not do it. There is not a Surveyor General here that I have not tried by every means possible, except Surveyor General Hardenbergh, to have those lands surveyed. I used all my best endeavors, but I could not. I went to Mr. Glidden, in the time of Mr. B—som. I went to him to get the lands surveyed. He told me the Casilayomi grant was over the land, and it could not be done; and the Geysers were within their exterior boundaries. I was afterwards introduced to Mr. B—som himself, by Mr. Carr, a gentleman from the lower part of the State. Says he, "I think you can get your land surveyed; go and see Mr. Glidden, and see what he says." I didn't tell him what Glidden had said before; for Glidden had spoken cap-tiously to me, rather. To my astonishment he was all smiles. "Certainly, Mr. Polack, you can get your land surveyed. You can get it surveyed immediately, and it will only cost you one half, as a gentleman is just having a tract surveyed in that neighborhood." "Oh," said I, "I am pleased to hear it; what is his name?" "His name is Chapman." I said, "I am very glad to know that; let me know his direction," for I thought he was a person living in that neighborhood. I must tell you: When I first saw Mr. Chapman I didn't know his name, or know of him at that time. He then said, "There is no necessity for your residing in Sonoma County." When he told me of Mr. Chapman, I ascertained his address and went there to see him; and told him I should be very glad to pay one half of the expenses of the survey. I said, what part are you having surveyed? "Well," he said, "I am having surveyed the Geysers." "The devil you are!" "Yes, I am having the Geysers surveyed." "Are you aware that I am the owner of the Geysers—or myself and wife are the owners?" "Well," he said, "that is all very well, if that is the case." I said, "Mr. Chapman, I presume you want to do what is correct and right. Now, if you will call to-morrow, at my office—set your own time—I will show you all our documents, so you may know now what you are doing." He said, "Very well, I will call on you any time." "Well, eleven o'clock." "Good." I brought down

my documents, which I have in my own pocket, just took it out of my drawer. We sat together—close together; and he took each document in his hand, from the survey of the original location to each conveyance, each transfer of the school land warrants; each conveyance I directed his attention to, especially where they were recorded in Sonoma County, in the records of Santa Rosa and Sonoma County. After carefully examining them he said, "I am perfectly astonished at that. I have been misled, and if I had known that, why, I should not have entered upon the land. Now," says he, "if you will pay for the survey of Martin"—who, by the way, was surveying for both of us; and, by the by, surveyed for us in eighteen hundred and sixty-two—September, eighteen hundred and sixty-two; he made our surveys for the purchase and location—"If you will pay Martin for his survey for my survey, I will forego the matter altogether—I will give it up." I said I would see my wife on the subject; so I spoke to her about it. Says she, "Certainly not;" says she, "Mr. Bliss, who is a lawyer of Petaluma, has already laid school land warrants on it in eighteen hundred and sixty-three, knowing that the land was yours; he, residing in Sonoma County—knowing the records and knowing the land was yours—and he will want us to pay for his survey," etc. I didn't see Chapman after that. Now, let me consider, when was the next time I saw him. My tenant, James Shaeffer, at the Geysers, told me that W. S. Chapman was trying to buy those lands—to get him to give over his possession to him—and that he was going to let him have the place for nothing. I was up there one time quite suddenly, at the Geysers, and Mr. Chapman had come there. As soon as he saw me—the coaches arrived at twelve o'clock, and left at two o'clock, generally; he arrived at twelve o'clock—he said, "Good morning, Mr. Polack;" and at the two o'clock coach he was off. Unfortunately, my tenant, a young man, was fond of drink, fond of gambling, and one night had a terrific fire there; we were afraid of the house being on fire, and a thousand things, and we told him that unless his father would join him as a tenant we must get some other person; his father said he would come, and afterwards said he would not come, and that ended that matter. I then got another person by the name of Susanbeck. Susanbeck went up there on, I think, the twenty-seventh of December, eighteen hundred and sixty-nine, preparatory to his entering into possession on the first of January, eighteen hundred and seventy, for the year eighteen hundred and seventy, until the thirty-first of December. He then removed. He left his home there and went on to Healdsburg. As soon as Shaeffer, who resides at Healdsburg, heard that Susanbeck got the title, he said: "We will see who has the right to this place," and he then telegraphed to Chapman on the third, this man had come up and was going to take possession of the Geysers; Chapman telegraphed in reply, "Hold on, wait until tomorrow." This was on the twenty-ninth of December. On the thirty-first of December, at about, I understand, eight or nine o'clock at night, Clinton Gurnee, who has an office next to Chapman, and who has been Chapman's lawyer for locating scrip for some years, with Horace Templeton, the late Judge of San Mateo County, and a man by the name of T. W. Moore, went up there and took possession of the place. Shaeffer had got into great difficulties, and especially with a firm by the name of Goodwin & Co., who had let him have some furniture; they are of this city; but the Sheriff was in possession of the furniture for Goodwin, and Gurnee, when he took possession of the place—when he made this forcible entry—he came forward and put a patent upon the table. He

says, "Mr. Susanbeck, we are here under a patent signed by U. S. Grant; perhaps you would like to see it," and he put the patent on the table. Mr. Susanbeck said, as he stood, that he had nothing to do with the patent; that he was satisfied if he had a patent that that was not the way to enter the property; that there was acres of law and he guessed it was false, for all he knew. He knew nothing about it. But their manner of coming upon it was such that he presumed it was forged, or words to that effect. They never left possession, and one woman, who was especially devoted to my wife and myself when we went up there, told us, that the gate-lock was broken open on the second of January, eighteen hundred and seventy.

Mr. Murphy—Those details are immaterial. We want to get the main points?

A.—On July the ninth, eighteen hundred and sixty-eight, Chapman commenced a contest in the Land Office of San Francisco District, and notice was sent by Mr. Shanklin, Register of the San Francisco District, to John W. Bost—I read just a short notice—notice was sent to Mr. Bost as he was about leaving this city, on the boat, to go to Sacramento, where he resides, officially. No knowledge was given to us who were the owners of the property. The case came on, I think, on the ninth of July, eighteen hundred and sixty-eight.

Q.—Where did the case come on?

A.—In the Land Office. I was informed that such a contest was going on, and I appeared there with Mr. W. F. Hastings as my attorney. Mr. Nourse, on the part of Chapman, commenced taking testimony; and it was adjourned to a certain period of the day, for the next day. In the meantime, on the next day, the United States Surveyor General sent a notice to the Register and Receiver that the map was suspended, inasmuch as the land in contest was supposed to be within the exterior boundaries of the Casilayomi grant, and it was suspended from that day, the tenth of July, eighteen hundred and sixty-eight, and remained suspended down to this period.

Q.—The case is not decided yet?

A.—It is not decided yet. On the twenty-fifth of this month the case will be heard before the Secretary of the Interior. As to the grant, a survey was made of the Casilayomi grant, which has been called the Pantaloon grant, inasmuch as the grant, instead of being made in an oblong form, as it should be, in a compact form, as the law demands, as the judgment and the decree also demands, they made it in this form; here would be the Geysers, and here is their eastern boundary—and the Geysers come here. They leave out the whole interior, where they were, and placed the map exactly in this form. It is known as the Pantaloon grant. The moment the Commissioner of the General Land Office saw that, Mr. Drummond, that was sufficient for him to see it was not according to the decree, and hence, as soon as he saw it, he gave a decree, in which the Geysers is entirely left out. The nearest point is about five miles off from the Geysers, and that is now before the Secretary of the Interior; and, on the twenty-fifth of this month the Secretary will hear the arguments on both sides.

Q.—It is still undetermined?

A.—Therefore it is still undetermined.

Mr. Higbie—He claims by what title?

A.—He laid a Sioux scrip on it of "number four hundred and forty-

four E," for one hundred and sixty acres, said to be of a half-breed Indian by the name of Daniel Frenier, and it is made in accordance with a law of Congress of July seventeenth, eighteen hundred and fifty-four; and if you, gentlemen, should have occasion, or will have occasion, to look at the statutes at large on that subject, I will procure the number of the volume; I have not got it here. If you look at that you will find that the Sioux scrip can only be laid within certain limits in Minnesota, and not outside of that, which is called the Reservation of Lake Pepin Indians, or Half-breeds, or Sioux Indians, for land which they gave up to the United States Government; a portion of land which had been partly in dispute by persons squatting on it; and in return for that they received what is called half-breed scrip, and that half-breed scrip, or Dakotah scrip, and that scrip was to be laid within a certain reservation within the State of Minnesota, and outside of that reservation in the State of Minnesota they can't lay it under the laws of Minnesota, or any other State.

Q.—This is an open question in regard to that matter?

A.—It is an open question for you, gentlemen, to determine, also.

Q.—It is a question of law?

Mr. Higbie—Do you know how Mr. Chapman became possessed of that scrip?

A.—No, sir.

Q.—Do you know anything as to whether it was secured by honorable or dishonorable means?

A.—I think by the most dishonorable means. I think that the whole of these pieces of scrip are forged.

Mr. Murphy—You think; do you know?

A.—I cannot know that, because I have not been in the private office of Mr. Chapman to know that. But I know in answer to this complaint that he has sworn to downright perjury. So, with Mr. Chapman, in my opinion, perjury is not uncommon.

Mr. Higbie—Do you know in relation to this case, or in any other, where there has been any improper conduct on the part of Mr. Chapman or any one else in securing titles through fraud, or anywhere, by any one, by any means—by financial means?

A.—Yes, sir.

Q.—Well, in this case of yours, when it was in contest in the Land Office, and the map was suspended?

A.—Nothing further could be done on either side, unless with the permission of all parties; that is, the parties who own the grant. All parties may agree, but when that has taken place nothing further could be done until it is restored. I showed just now to Mr. Chamberlain a letter that was sent to him as Commissioner of the General Land Office, and that letter was simply to show that the Register and Receiver of the Land Office—of the United States Land Office in this city—didn't inform the Commissioner of the General Land Office that there was any contest going on in this State; and I presume the reason for that was this: that they don't do that, unless the case is concluded, and then they send the whole circumstances to the General Land Office. But in this case they didn't, and consequently the Commissioner of the General Land Office wrote to them on the subject, and asked them why they didn't do it.

Mr. Chamberlain—The case is still on trial, and we never inform them of a contest. The record is an intimation of its existence there; and when a map is suspended, it would be the duty of the Surveyor General

to inform them of that fact, as well as us; so that, when a map is suspended, nothing should be done on it. Whenever a case is on trial, and a map is suspended, we drop it right there, until the map is restored. That case now lies in the office, waiting the restoration of the map. The testimony lies in the office, waiting the restoration of the case. We can proceed with the investigation as soon as the map is restored.

Mr. Polack—Well, then, when the map is suspended, the contest is virtually dead.

Mr. Chamberlain—Without the consent of the parties that it may go on.

Mr. Polack—I would like to read this letter in answer to your question:

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE, May 20th, 1870. }

Register and Receiver, San Francisco, California:

GENTLEMEN: I am in receipt of a letter from Henry Bird, Esq., of Washington, District of Columbia, Attorney for the State of California, bearing date May nineteenth, relative to claim of said State to the north-east quarter of section thirteen, township eleven north, range nine west, M. D. B. and M., selected January fifteenth, eighteen hundred and sixty-eight, under Act of September, eighteen hundred and forty-one, which selection is based upon a previous survey made by the State in December, eighteen hundred and sixty-two. This part was also located by Sioux Half-breed scrip, four hundred and forty-four E, on the fourteenth of January, eighteen hundred and sixty-eight, and the location and selection both reported to this office.

The papers accompanying the briefs will show that subsequently a hearing was held before you between the parties, to determine the rights of the respective parties, and that pending the investigation, the plat of the survey was withdrawn by the Surveyor General, and the hearing for that reason postponed; but no notice has ever been officially given by you to this office of these proceedings, and the scrip location has inadvertently passed into patent. A call has, however, been made upon Mr. Chapman, attorney for the Indians, through Messrs. Britton & Gray, of Washington City, for a return of the patent, until the rights of the parties shall be determined. I have, therefore, to request that if the plat is on file, or if not, when it shall be returned to you, you will cite the parties before you and proceed with the case. Therefore transmit the testimony, with your general report, to this office. Refer to this letter by "F," and its date.

Very respectfully,

JOSEPH S. WILSON,
Commissioner.

Mr. Higbie—The patent was issued then?

A.—The patent was issued at the time.

Q.—And that patent was forwarded here for reconsideration?

A.—No, sir; General Joseph Wilson ordered this sent back.

Q.—Ordered it back?

A.—Yes, sir; Britton & Gray are attorneys for Chapman.

"DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE, }
WASHINGTON CITY, May 17th, 1870. }

"MESSRS. BRITTON & GRAY—Gentlemen: I have to request the return to this office of patent transmitted to you for the northeast quarter section thirteen, township eleven north, range nine west, Mount Diablo meridian, based upon location made by Daniel Frenier, per W. S. Chapman, attorney, with S., H. and B. scrip, four hundred and forty-four E., at San Francisco, California, January fourteenth, eighteen hundred and sixty-eight. This land is covered by a selection made by the State of California, under Act of September fourth, eighteen hundred and forty-one, on fifteenth January, eighteen hundred and sixty-eight, predicated on a survey by order of State laws, made December thirtieth, eighteen hundred and sixty-two, and is claimed by Mary Polack, late Mary Hart, under school warrant to two hundred and seventy and two hundred and seventy-five, hypothecated upon the said survey. The scrip location was inadvertently passed into patent pending a hearing of the case before the district land officers, and the return of it is requested, so that the hearing may be proceeded with, and the rights of the parties terminated on the evidence in the case.

"Very respectfully,

"JOS. S. WILSON,
"Commissioner."

They never returned the patent. They held it, and they forcibly entered the property on the thirty-first of December, eighteen hundred and sixty-nine.

Q.—On that patent?

A.—On that patent; on that fraudulently obtained patent, and I had to commence a suit to get them out. The first suit I had was in the County Court of Sonoma County, Number Two Thousand Four Hundred and Fifty-one. I want to show you that I did everything I could do. I have paid taxes on the property, and done everything I could. I want to show you how we have been worsted, fatigued, and worn out with lawsuits by these scoundrels. "Forcible entry and detainer, and holding over of tenant, J. S. Polack and wife." "The holding over of tenant, James Shaeffer," who joined with these scoundrels. To make short work of the case, two of the jury hung; that is, ten of them were in our favor, and two of them were not. Some resided in the same place, and some of them in Santa Rosa, and we had to have a new trial. The new trial gave it in our favor for five hundred dollars damages.

Mr. Murphy—What was the nature of the suit?

A.—Forcible entry and detainer. It went up to the Supreme Court, and there it hung two years. Ultimately a law was passed by the last Legislature, that if in six months the Judges of the Supreme Court didn't give an opinion, you could then ask for a rehearing. In an unfortunate moment I asked for a rehearing, and then the Court stated that our complaint was bad, and demurrers that they put in were correct, and it was sent down for further proceedings. In the meantime the Judge who gave it in our favor—Langdon—had left the bench, and a person named Overton, who is now County Judge, was elected. Overton stated himself to Mr. Brooks, who was my attorney, to Judge Ross, the present District Attorney, and others, that he was a friend of

Chapman's, and that he didn't think he ought to try the case, and that he would not reinstate them, for we could have a speedy trial. We said certainly we want a speedy trial. But they went up to him, and followed him to the springs, and got him to give a writ of restitution. It came up before the Supreme Court again, and we had the case sent down here, and transferred to the County Judge here. The day before it was allowed to go to the jury, Judge Stanley would not allow the case to go to the jury, but nonsuited us on the ground principally that though they had made a forcible entry and detainer, yet the forcible entry and detainer was made on the second of January, eighteen hundred and seventy, and not on the thirty-first of December, eighteen hundred and sixty-nine. Again, all those matters always refer back to the first Act, and he therefore nonsuited us. Suit had been commenced by Polack and wife too, and inasmuch as we had no rights to the property, having delegated them to a tenant, and the Supreme Court decided that he was right. That took a number of years. Then I think I had about five or six lawyers in those cases. Then it was in the Twelfth District Court, and they commenced a suit. They claimed it on the part of a Daniel Frenier, and Chapman sold the property to Clinton Gurnee, that is his own counsel, for sixteen hundred dollars, for a check of sixteen hundred dollars. The moment they made the raid and got possession they commenced suit to quiet title in the Twelfth District Court, case number fifteen thousand three hundred and forty-four. When they had got the writ of restitution from Judge Overton—Clinton Gurnee vs. J. S. Polack, Mary Polack, and J. C. Susanbeck—when they got that writ they gave up that suit, inasmuch as they were in possession, and then they commenced a suit in the Seventh Judicial District, number six thousand three hundred and ninety, complaint in ejectment. That was also dismissed by Gurnee. Then we commenced a suit in the Fifteenth District Court to quiet title. When he got the writ of restitution he commenced a suit to quiet the title and enjoin plaintiffs, in the last above suit, Mary Polack, J. S. Polack and J. C. Susanbeth (tenant) vs. Clinton Gurnee and W. S. Chapman. January twenty-third, eighteen hundred and seventy-one, complaint filed and served. Plaintiff gave injunction bond of five thousand dollars. This suit on title has never yet been reached on the docket of this Court, but it is set for this or the ensuing term. Then Mr. Chapman, after he got in he commenced suit number four hundred and seventy-two, in the Nineteenth District Court, Wm. S. Chapman vs. Joel S. and Mary Polack, to quiet title to the Geyser Springs property. That remained for awhile, and then there was this case, where they commenced this suit, and we had to employ counsel to defend us on the other side, and it has cost us thousands of dollars, and we continued in litigation; continually in hot water. We are elderly people, my wife and myself. I am sixty-eight and she is sixty-four. I tell you it is no pleasant trick, and you must excuse my feelings. This ought to be delivered back, this patent. The statement of Judge Chamberlain that nothing can be done while a contest is suspended, and therefore, in the meantime, it was only by perjury and by fraud that they could have got that patent. The patent was not known about, but as soon as it was known I commenced this suit to quiet title. Gentlemen, I have spoken with far more warmth than I ought to have done; but I have told you my age and the thousands of dollars I have been out of pocket. I have told you the trouble and annoyance that these innumerable law-

suits have given us. We have eight or ten lawyers to fee, and all through these scoundrels.

TESTIMONY OF DANIEL ALLEE—(RECALLED).

DANIEL ALLEE, called, sworn, and examined:

Mr. Higbie—Do you know, or have you in your possession, any books or papers giving the details, showing something of the transactions of Mr. Chapman in those locations that were made by these different kinds of scrip?

Answer—Yes, sir.

Question—Have you them with you?

A.—No, sir; I have not them with me, but I can get them to-morrow. I have got to keep what papers I have very close, but I will look them up.

Q.—Could you not get so we could have the use of them, or a portion of them, some time to-day?

A.—I don't know; I can try.

Mr. Polack—I would like to make an observation, and that is this: that Chapman has never paid a solitary cent for the property in the Geyser Springs, and he has left us to pay the taxes on the property, which I have done to this day, even to this year, although he has all the rents and the profits.

Q.—And is in possession at the present time?

A.—He is in possession under the writ of restitution from Judge Overton.

Mr. Allee—I would say in reference to the Geyser Springs and Mr. Polack, that the scrip location for four hundred and forty-four E, Daniel Frenier—I am informed, and believe, that Daniel Frenier never signed that power of attorney which bears date of eighteen hundred and sixty-three. He was one of the Indians, one of the leaders in the Sioux outbreak, and narrowly escaped with his life, and went to British America; and if he was in the State of Minnesota, or any county—I believe it is acknowledged in Ramsey County—that if he was there, that none of the Indians knew anything at all about it. They say that he was in British America. Moreover, the power of attorney was not used at all until eighteen hundred and sixty-nine. The Indian was killed in eighteen hundred and sixty-four.

Mr. Polack—Daniel Frenier?

A.—Yes, sir; and of course the death of a party annuls the power of attorney.

Mr. Higbie—What was the date of that power of attorney?

A.—Eighteen hundred and sixty-three; and no action was taken on it until eighteen hundred and sixty-nine. In the latter part of December, eighteen hundred and sixty-nine, was when the power of attorney to sell and convey was used.

Mr. Chamberlain—The location was made in eighteen hundred and sixty-eight?

A.—In eighteen hundred and sixty-eight. I think you will find that the location itself was not made under power of attorney to locate, but the application itself was signed by Daniel Frenier; at least, there never

was a dollar paid, unless it has been paid lately, to either Daniel Frenier—and not money or consideration was received from the sale of the land—if it was done, and the deed purports it to be so—but one party selling to another is hardly valid consideration in a sale.

Q.—Have you in your possession any of those blank powers of attorney?

A.—No, sir.

Mr. Klotz—When Mr. Chapman used to go, as you stated yesterday, and take blank powers of attorney into the next room, and came back and had them filled out, was anybody else in that room except Mr. Chapman?

A.—No, sir.

Q.—Did the handwriting look to you like Mr. Chapman's handwriting?

A.—His own handwriting.

Q.—Signing other people's name?

A.—Yes, sir.

Mr. Higbie—Blank when they went in the room, and filled up when he came out?

A.—The one I allude to was signed when he gave it to me, and was blank when I gave it to him. Oh, they used to lay in his pigeon hole in his desk there.

Q.—I understood you to say yesterday—I mean misunderstood you—that there were some of those blanks yet existing there?

A.—Not that I know of, sir.

Mr. Klotz—If I am not mistaken, you stated that he asked you to sign some of them?

A.—Yes, sir.

Q.—Put different parties' names on them?

A.—Yes, sir; and put dates and one thing and another.

Q.—Not sign them with your own name?

A.—No, sir.

Q.—Somebody else's name?

A.—Yes, sir; I refused to have anything to do with the transaction in any way, shape, or manner, or put even a pencil mark on them.

Mr. Higbie—How many, to the best of your recollection, of such certificates were made out?

A.—Well, it is my impression that there was not more than three or four that were legal in this State—under the laws of this State—that were not doctored some way or other; for instance, we find out that an Indian had died in eighteen hundred and sixty-four, we dated it back to eighteen hundred and sixty-three. They had the dates and about the ages of the Indians. When an Indian minor became of age we would so put him in.

Mr. Klotz—The way you stated yesterday there would seem to have been an Indian that was hung, and three years after that he signed the scrip or power of attorney?

A.—Well, he signed an application bearing date of eighteen hundred and sixty-eight.

Q.—And he was hung in eighteen hundred and sixty-five?

A.—He was hung in eighteen hundred and sixty-two.

Q.—Well, when he was hung, could it not possibly be that he come to life again?

A.—Well, that is beyond my knowledge. Then the Register of Ormsby County, Nevada, he told me that documents came to him up there in

very curious shape; that he had seen documents where one half apparently, of two documents was used, as if they got one half of a power of attorney and then pasted on the part of another power of attorney, and used the same document twice in several cases.

Q.—So when the dead Indian wouldn't do, they used some other remedies?

A.—But the law in this State does not allow a person to insert anything in a document conveying land, even if the powers of attorney were fraudulent, that I don't know. They were brought on from Minnesota. The dates and names were inserted, which would annul them under the laws of this State.

Mr. Meyers—Didn't I understand you to say that you at one time saw a batch of papers of, perhaps, a hundred powers of attorney, that were unsigned?

A.—Yes, sir; they were made out and acknowledged by a man named John Murray, Jr., in Minnesota. He was a poor fellow there, and they used him as a tool, and after they got through with him, he died of delirium tremens, and they would not even pay twenty dollars to bury him; he had to be buried at the expense of the county.

Mr. Higbie—These were acknowledged while blank?

A.—Yes, sir; before John Murray, Jr., and some of them have nothing at all but the mere signature of John Murray, Jr., and the seal; no name of any kind or description, and no other stroke of the pen in the whole document.

Q.—These were the kind that were taken blank in the other room and came out filled up?

A.—Yes, sir; they were of the same kind.

Mr. Meyers—Was not this Sioux scrip, from the fact that it could be located on unsurveyed lands, used for the purpose of selecting and picking out the best lands that could be found in different parts of the State, and also for harrassing and blackmailing purposes?

A.—Yes, sir; that was the peculiar kind of scrip that was used for it particularly. Sometimes it could be floated around. Some of that scrip was located in the State of Minnesota. Perhaps they got all they could from the poor settler that had located there. It was floated off—taken up and floated to Nevada—and, perhaps, there might have been some cases where that same piece of scrip was located three or four times, each time making terms with those settlers, and floating it off again, and make terms down here; and now he has floated it back again to Minnesota.

Mr. Klotz—Make all they could out of one man, and then lay it to another?

A.—Sometimes. As Chapman says, he never gives up a patent; but they sometimes do, when they find the land is not as good as they thought it was; and they can send the patent back to Washington, and cancel it if they wish to.

Mr. Higbie—Do you know anything in relation to the patent issued on the land that was owned by this gentleman, when information was sent back to him or his attorney that that patent should be returned. Do you know anything in relation to that?

A.—No, sir; the order to return the patent was after it left Mr. Chapman's office. The patent came on to us—came with a host of others—a dry goods box full of patents. It was slipped in with the patents that were all straight and correct.

Mr. Murphy—Patents come by the bushel there, by the quantity?

A.—Yes, sir; and we had a person at work for two or three days at the office, just simply folding them, and he never did have time to back them; but simply put a number on them.

Mr. Higbie—You mean the patents that came to Mr. Chapman?

A.—Yes, sir; that was one great cause of fraud too, this idea of delivering up a patent at Washington, to the attorney of a party. If that had not been done, and if no person or attorney had been allowed to take the patent in Washington, and deliver the patent through the local Land Office, it would have saved a great deal of this fraud; then they would have held it in the San Francisco Land Office beyond a doubt; and they would have held the patent to the Geysers until they wrote on to Washington to see—to see if they should give it up, as there was a conflict in their own office. In that case Mr. Polack would not have been put to the expense and trouble he has been put to.

Mr. Polack—What time did Daniel Frenier die?

A.—In eighteen hundred and sixty-four, so the Indians say.

Q.—How did it come to your knowledge? How do you know that he did die at that period?

A.—From the Indian's friends; they all keep the run of the different members of the tribe. They are scattered all over the West; that is in the State of Minnesota, and British America, and through Dakotah.

Q.—How did it come to your knowledge?

A.—Well, I received a letter from my agent in Minnesota, that such was the case, and that he had made it his business to look into these Sioux scrip matters.

Q.—Then when Wm. S. Chapman, as attorney in fact for Daniel Frenier, on the thirtieth of January, eighteen hundred and sixty-nine, conveyed the Geyser Springs to Clinton Gurnee, as attorney, his principal was dead; that is, Daniel Frenier was dead?

A.—Daniel Frenier was dead.

Q.—Was that so?

A.—Yes, sir; that is, to the best of my knowledge. My agent in the East has a trust conveyance from a couple of the heirs of Daniel Frenier, and they claim, and the family claim, that he was killed in eighteen hundred and sixty-four.

Mr. Murphy—You have not sufficient evidence to justify you in stating so?

A.—I said so in the beginning.

Q.—You have not sufficient knowledge to swear to it?

A.—No, sir; I don't know from my own knowledge.

Mr. Meyers—You say your agents have some powers of attorney from those who purported to be the heirs of this man?

A.—Several.

Q.—I understood you to say that your agent there had powers of attorney from those who claim to be the heirs?

A.—Yes, sir.

Mr. Higbie—And they claim that he was dead, and died at that time?

A.—Yes, sir.

Mr. Polack—Do you know about what time in eighteen hundred and sixty-four did he die, to the best of your knowledge?

A.—I believe it was stated in the letter, but I don't know—don't remember that now. Large numbers of these fraudulent patents were

made in eighteen hundred and sixty-seven—in the Fall of eighteen hundred and sixty-seven, a large part of them.

Mr. Murphy—I believe you stated in your previous examination—*Mr. Chapman* is here now—you stated that on one or two occasions—I forget the number of occasions—that *Mr. Chapman* went into a side room of the office and came out with documents signed—forged the affidavits to those powers of attorney; did you not?

A.—Well, he took them in unsigned, and they came back signed, in his handwriting.

Q.—How many powers of attorney; was it one or more?

A.—Well, there was in that case—I have seen a number that were in his handwriting, and a great many were signed with a mark in his handwriting, and have the date all the way from eighteen hundred and sixty-six to eighteen hundred and sixty-seven. They were acknowledged in Minnesota, while he was not east of the mountains from the Spring of eighteen hundred and sixty-four up to eighteen hundred and seventy, and in that period of time he resided on the coast here.

Mr. Chapman—Gentlemen, I would like to ask the witness one or two questions. I don't know what the object of this committee is, whether it is to try me for bribery or forgery; or the Supreme Court for having made a decision in my favor, or reversed the decision against me; or the Department at Washington that has granted the patent of *Mr. Grant*, who has signed it.

[The resolution under which the committee were acting was read.]

Mr. Chapman—That refers to monopoly in the public lands; it does not refer to me. All I have heard since I came in has been in regard to me. But I hope you will do me the justice to hear me on all these charges. [To Allee.] Were you a witness in the case in which *Timothy Paige* was plaintiff and I was the defendant, recently?

A.—Yes, sir; I was, sir.

Q.—Did you not testify on the stand there, that you had stolen from my office some fifty or more papers before you left it, or that you had stolen a large number of my papers?

A.—I testified that I had taken them, after you had swindled me in transactions between you and I. I testified that I had taken those papers for the purpose of putting you in the State Prison.

Q.—You stated that on the stand, did you?

A.—Yes, sir.

Q.—Well, to satisfy the committee of that, it would be well for the committee to get testimony. Now, he was my clerk, and, when I discharged him, carried away a great number of my papers with him, and sold them around town.

A.—That is a falsehood.

Q.—And I have been at a great expense to get them, and have not got them all yet. [To *Mr. Polack*.] I believe you stated to the committee that the patent in the *Geyser* case had been obtained by sheer perjury, felony, and fraud?

Mr. Polack—I said so; yes, sir.

Q.—Now to whom did you allude, when you spoke of perjury?

A.—I presume that it must be yourself, in conjunction with your attorneys.

Q.—You only presume that I committed perjury?

A.—I know it from the one reason, that the Commissioner ordered the patent back.

Q.—Did I ever make an affidavit in the case?

A.—No, sir.

Q.—Could I commit perjury without being sworn?

A.—I simply stated that it was committed.

Q.—I have never been sworn in the case. I could not commit perjury without being sworn. I would like to ask Mr. Polack a question; it is hardly necessary to do so. He stated before you that this peculiar scrip could only be located within the limits of the reservation. Now if you refer to the bill, you will find that it applies to every place and any place. It may have been an error here, or in Washington, that they ever received the scrip at all; but I have used it and patented it in eight different States and Territories.

Mr. Allee—I could throw some light on that subject.

Mr. Polack—These warrants were laid on my land before that law in Congress was enacted. The law of Congress is the seventeenth of July, eighteen hundred and sixty-four.

Mr. Allee—So far as the location of this scrip, outside of the State of Minnesota, is concerned, the Department first decided that the locations could not be made outside of the State of Minnesota. In the Carson City Land Office, in Nevada, on the fourth of March, eighteen hundred and sixty-four, or the first of March, eighteen hundred and sixty-four, there was over a hundred locations of this scrip. They were sent to Washington and were all canceled. Six hundred dollars was paid to a clerk in the Department, and a short time afterwards the decision was reversed, and they were reinstated on the books.

Mr. Chapman—The witness has stated that I used this scrip for the purpose of blackmailing people in Minnesota, Nevada, and California. I would like to have him name one single person that has ever paid me one single dollar for that scrip?

A.—Well, every person has that you sold scrip to.

Q.—Who have paid me for it?

A.—That transaction with Godfrey, Stillman & Co., with whom you are good friends now.

Mr. Chapman—I located their timber land and procured a patent for them from the United States, and they paid me for it. That may be blackmailing. If that is what he understands to be blackmailing, I have done a great deal of it. If I have ever located any piece of scrip on any settler—not excepting Mr. Polack's claim, or that of any man in California—I want that man to be named and brought before this committee; and if he will make it appear that I have located scrip on anybody—I advertised publicly to do so in the *Chronicle*—that I would return the land to the settler for nothing; and I would have given it back to him, free of cost, if any man had came to me. Do you say, Mr. Polack, that you located at my request?

Mr. Polack—No, sir; I say that you located on parties who put the improvements on the ground, and didn't sell those improvements to you. They were sold to us and we entered into possession, and nobody has ever came forward against us.

Mr. Allee—Well, I will refer to Judge Chamberlain, in San Francisco—his Land Office.

Mr. Chamberlain—I don't know anything about blackmailing. There have been conflicts with Sioux scrip, and sometimes—most all that I knew anything about—there were men who very often located at the request of the men filed upon unsurveyed lands that were never located, and we decided that it could not be located upon the unsurveyed lands,

except upon the application of the Indian himself. I don't think there ever was a location on unsurveyed land in the district.

Mr. Chapman—I have had a great many conflicts with Sioux scrip; I have had a great many conflicts in the State of Nevada, and the Register of the Land Office there is in town, and I wish you would examine him. Mr. Knight, Mr. Shanklin, and Mr. Rollins I want, and Mr. Lindsey, and I would like to have them testify as to the character of my business.

Mr. Chamberlain—A great many cases have been conflicting; many are Sioux scrip locations against a preëmption claim, claiming same right and possession to it.

Mr. Chapman—It is a very common thing in California to claim more than one hundred and sixty acres; and when the claimant can't take more than one hundred and sixty acres, men very often try to get the excess, and I have had conflicts with squatters; but I defy any man to bring up a case where I have located and held any case against any settler.

Mr. Allee—He would stand about as good chance for getting it as I would. I have an affidavit that those papers were never executed to him; I have an affidavit from one of the parties to that effect. I notified the Chief of Police that he should not deliver those papers to anybody else but me.

At one o'clock P. M. the committee adjourned.

AFTERNOON SESSION.

At half-past two o'clock P. M., the committee reassembled.

On motion of Mr. Meyers, the taking of further testimony was dispensed with, and at two o'clock and fifty minutes P. M., the committee adjourned.

The following were presented the committee, by Mr. Allee, as documentary proof:

"Certified copy of affidavit of Theo. G. Brunsen. Thirty-six, A, B, C, D, and E."

STATE OF WISCONSIN, }
County of Crawford. } ss.

Theophilus G. Brunsen, of said county, being duly sworn, says that he is the same person to whom was issued Sioux half-breed scrip number thirty-six, letter A, B, C, D, and E; that he is now of the age of thirty-two years; that he does not know what has become of this scrip issued to him, or where the same has been located; that he has never had the same in his possession, and has never received any benefit from the same, whatever; that he has been informed that scrip A, B, D, and E, has been located and patents issued therefor; but that "scrip C" has not been patented; that deponent does not know where said "scrip C" is at this time, and has never had the same in his hand, and believes

that the same has been lost or destroyed; wherefore, he prays that a duplicate thereof may be issued and delivered to his attorney, D. G. Shillock, at Minneapolis, Minnesota.

THEO. G. BRUNSEN.

Subscribed and sworn to before me, this sixteenth day of July, eighteen hundred and seventy-two.

IRA B. BRUNSEN,
County Judge.

[Seal of Crawford County, Wisconsin, Probate Court.]

MINNEAPOLIS (Minn.), —, —.

I hereby certify that the above is a full, true, and correct copy of the original affidavit, read by me this fifth day of August, A. D. eighteen hundred and seventy-two.

CHARLES T. JEROME,
Notary Public, Hennepin County, Minnesota.



STATE OF MINNESOTA, }
County of Chippewa. } ss.

Office Clerk of District Court of Chippewa County, Minnesota. Personally appeared before the subscriber, Clerk of District Court, County and State aforesaid, Sophia Hamilton, who upon her oath says her name was formerly Sophia Prescott. That she received Sioux half-breed scrip number one hundred and twenty-six, letter A, B, C, D, and E, for four hundred and eighty acres of land; that one half of said land was sold while she was yet in her minority, when she was only eleven years old, and for which she never received any compensation; and further says, that the other half was sold to one Stewart, attorney at law, in Minneapolis, Minnesota. That she signed the papers contrary to her will. That she only received thirty-four dollars as compensation for said scrip.

SOPHIA HAMILTON.

Subscribed and sworn to before me this twentieth day of December, A. D. eighteen hundred and seventy-one.

JOS. D. BAKER, Clerk.

[District Court seal, Chippewa Co., Minnesota.]

MINNEAPOLIS, MINNESOTA, August 12th, 1872.

I hereby certify that the above is a full, true, and correct copy of the original affidavit.

A. GRETHEN,
Notary Public, Minn.



Certified copy of Power of Attorney from Augustine Frenier to Wm. S. Chapman:

In witness whereof I have herunto set my hand and seal, the fourth day of November, in the year one thousand eight hundred and sixty-three.

[SEAL.] AUGUSTINE ^{his} + FRENIER.
mark.

J. R. BROWN,
J. E. WHEELOCK.

STATE OF MINNESOTA, } ss.
County of Brown. }

[SEAL.] J. E. WHEELOCK,
Notary Public, Minnesota.

UNITED STATES OF AMERICA,
STATE OF MINNESOTA,
Secretary's Office. } ss.

The Secretary of State, of the State of Minnesota, does hereby certify: That J. E. Wheelock, whose name appears subscribed to the annexed instrument, was, at the date thereof, a Notary Public in and for the State of Minnesota, residing in the County of Ramsey, duly appointed, and qualified, and empowered, by the laws of this State, to

administer oaths, take depositions, acknowledgments of deeds, and other written instruments, and exercise all such powers and duties, as by the law of nations, and according to commercial usages, may be exercised and performed by Notaries Public; that full faith and credit are due and should be given to his official acts as such Notary; and that the instrument to which this certificate is attached is executed and acknowledged in accordance with the laws of the said State of Minnesota.

In witness whereof, I have hereunto set my hand and affixed the Great Seal of the State, at the Capitol, in Saint Paul, this fourth day of November, A. D. eighteen hundred and sixty-three.

{ SEAL }

D. BLAKELEY,
Secretary of State.

[U. S. I. R. S., 5 cents.]

Filed for record, at request of W. S. Chapman, October nineteenth, eighteen hundred and sixty-seven, at thirty-five minutes past three o'clock P. M.

JAMES ANDERSON,
Recorder.

Recorded October twenty-fourth, A. D. eighteen hundred and sixty-seven, at forty minutes past seven o'clock P. M., in Book One of Powers of Attorney, at pages one hundred and eighty-seven, one hundred and eighty-eight, one hundred and eighty-nine, and one hundred and ninety, records of Mendocino County.

JAMES ANDERSON,
Recorder.

STATE OF CALIFORNIA, }
County of Mendocino. } ss.

COUNTY CLERK'S OFFICE, October 11th, 1871.

I, James Fowzer, County Clerk of the County of Mendocino, State of California, and Clerk of the County Court of said county, do hereby certify that I have compared the foregoing copy of a power of attorney, and of the indorsements thereupon, with the original records of the same remaining in this office, and that the same are correct transcripts therefrom, and of the whole of said original records.

Witness my hand and the seal of said Court, this eleventh day of October, A. D. eighteen hundred and seventy-one.

{ SEAL }

By ———, Deputy Clerk.

JAMES FOWZER, Clerk.

Affidavit of Augustine Frenier, June eighteenth, eighteen hundred and seventy-two:

TERRITORY OF DAKOTAH, }
County of Cheyenne. }

Personally came and appeared before me, Charles H. Ribbel, an officer of the United States Army, Augustine Frenier, who deposes and swears

that he was born at Lake Taraum, Minnesota, about the year A. D. eighteen hundred and forty-one; that he has since resided in Dakotah County, Minnesota, for six years; and subsequent at Yellow Medicum, until A. D. eighteen hundred and sixty-two; he has since that time been a resident in various parts of Dakotah Territory, having for the last five years been a scout in the service of the United States, and stationed at Fort Wadsworth, Dakotah Territory. That Sioux Half-breed scrip number four hundred and fifty, letter A, B, C, D, E, for four hundred and eighty acres of land, was issued to him and delivered to his father, Xavier Frenier, who is now a resident at the Susseton Agency, at Fort Wadsworth, Dakotah Territory, and who deposited the scrip with Joseph R. Brown, late of Lake Taraum, Minnesota, for safekeeping.

The deponent further states that he has never received the scrip from the said Joseph R. Brown, and has received no benefit from the same whatsoever. The deponent further states that in the year A. D. eighteen hundred and sixty-eight, Francis X. Brounson, accompanied by Joseph Campell, obtained his signature to a document, the purport of which the defendant did not know; from what he has since learned he is in fear that the paper signed by him was a power of attorney, and deposes and swears that such power was obtained by misrepresentation, and that it never was his intention to part with his scrip.

AUGUSTINE FRENIER.

Sworn to and subscribed before me, at Fort Bollea, Dakotah Territory, this eighteenth day of June, eighteen hundred and seventy-two.

C. H. RIBBEL,

Second Lieut. Twentieth Infantry, Post Adjutant.

Certified copy of affidavit of Alexis Querlin, three hundred and sixty-five D, Emily Campbell.

STATE OF MINNESOTA, }
Mullet County. } ss.

Alexis Querlin, being first duly sworn, says: That he was married to Emily Campbell, a Sioux half-breed, to whom was issued Sioux Half-breed scrip number three hundred and sixty-five, D; that this deponent was married with said Emily Campbell on or about the first of February, eighteen hundred and sixty-six, by Mr. Hezlep, a Justice of the Peace, in St. Peter, Minnesota; that he, this deponent, had with his said wife three children—Paul, about six years old, Joseph, about three years old, and Mary, born the thirteenth of February, eighteen hundred and seventy-two; that his said wife died intestate on the twenty-sixth of April, eighteen hundred and seventy-two, leaving, as her sole heir at law, her above named three children; that his wife has always reported to this deponent that she had never the possession of said scrip, and has never received any benefit from the same; but that said scrip was delivered originally to her father, Antoine Joseph Campbell; that said Antoine Joseph Campbell, some time in the year eighteen hundred and sixty-three, took the scrip away, when he left temporarily his home; and that, upon his return, he told her, the wife of this deponent,

that he had sold said scrip to William S. Chapman; and that she has, never since that time, seen or heard what became of said scrip; and that her father never accounted to her, or paid her anything for said scrip; all which this deponent believes true; that this deponent has never sold or made any disposition of said scrip, or of the land located by the same; and that, with this deponent's knowledge, his said wife has never sold or made any disposition of said scrip or land; and that this deponent or his wife have never given any power of attorney, in regard to said scrip or land, to any one.

This deponent further says: That his wife was about twenty-five or twenty-six years old when she died.

his
ALEXIS + QUERLIN.
mark.

Subscribed and sworn to, this thirteenth day of May, eighteen hundred and seventy-two, before me,

A. THORSEN,
Notary Public and Register of Deeds.



MINNEAPOLIS (Minn.), August 7th, 1872.

I hereby certify that the foregoing is a true, correct, and full copy of the original affidavit read by me.

Witness my hand and seal, the day above written.

CHARLES JEROME,
Notary Public, Hennepin County, Minnesota.



Mr. Shanklin presented to the committee the following proposed amendments to the existing law:

"In order to give the schools of the State a full equivalent for the sixteenth and thirty-sixth sections, as was contemplated by the Act of May twentieth, eighteen hundred and twenty-six, and the Act of March third, eighteen hundred and fifty-three, and the Act of July twenty-third, eighteen hundred and sixty-six, I believe the Act of eighteen hundred and fifty-three, referred to, should be amended so as to remove all doubt or cavil; and would propose to amend section seven of said Act as follows: After the words 'reserved for public uses,' add, 'or as mineral land.' And after the words 'taken by private claims,' add, 'or grants made by the United States.' Then amend the sixth section of the Act of eighteen hundred and sixty-six, July twenty-third, to correspond, after the words, 'reserved for public uses,' add, 'or as mineral land;' and after the words 'Spanish or Mexican,' add, 'or United States.'" [Lister on Land Laws, Regulations, and Decisions.

Mr. Stewart presented a pamphlet (Ex. A.), "Decision in the matter of the California Private Land Claim, 'Guadalupe,' Diego Olivera et al., Confirmees." Also, a pamphlet, "To the Hon. Willis Drummond, Com-

missioner of the General Land Office, Washington, D. C., on listing lieu land school selections to the State of California" (Ex. B.). Also, "Appeal and Argument in the cases of Joseph Bird, Anthony Renville, A. M. Robertson, William Racicot, and Rachel A. McNair, Sioux Half-breed scrip claimants, v. Certain Preëmtors and the State of California" (Exhibit C.)

SAN FRANCISCO, July 22d, 1869.

HON. H. G. ROLLINS, *Register U. S. Land Office, San Francisco:*

SIR: Your letter of the twentieth instant, in which you ask the surrender of certain United States land patents, is this day received.

I have to say, that as attorney in fact for the scribees, I have sold the land covered by the said patents, and have delivered the deeds and patents to the purchasers some twenty days since.

Further I have to say, that I have no authority, under the power granted me by those half-breeds, to surrender patents; only to receive the same, and sell under certain conditions. I have further to say, that my scrip locations were made prior to the State applications, as is clearly shown by the evidence of your predecessor, Mr. Shanklin, who, under oath, said, that when Mr. Ransom, the State Locating Agent, came in on the nineteenth day of October, eighteen hundred and sixty-eight, to make the application on behalf of the State, "You are a little too late, Colonel."

And I have further to say, that at the time Mr. Coleman bought those State selections he well knew that other men were building a shingle mill on lands adjoining those, and that the flimsy possessory titles he bought were then held adversely to those who were building the mill, and that the same lands were claimed by those who were building.

He knew, when he bought that, he was buying a lawsuit, and now he is beaten, as he should have been.

And lastly, I have to say that no half-breed scrip has ever been located by me, upon this coast, where it should not have been. It has never been used to the detriment of the settler who had, in good faith, improved the land; but, on the contrary, it has been the means of saving the rights of many persons, who, under the liberal possessory laws of this State had, prior to the public surveys, expended large amounts of money and much time in improving more land than they could hold under the preëmption or homestead laws; and in locating for the protection of such persons, I have come in direct conflict with that class of "settlers," who never earned an honest dollar, but who go about seeking an opportunity to "squat" upon and preëmt lands which have been made valuable by the hard labor and money of other persons; such settlers have cause to complain of me, and of scrip locations on this coast; but no bona fide actual settler has ever complained of me or my locations, nor shall they ever have the right to do so; and if every scrip location which I have ever made upon this coast had been confirmed, no one would have been wronged whose rights should have been respected.

I cannot surrender the patents; nor would it be right for me to do so, if I could.

Very respectfully,

WM. S. CHAPMAN.

FIFTH DAY'S PROCEEDINGS.

WEDNESDAY, March 18th, 1874.

At eight o'clock and fifteen minutes A. M., the committee met pursuant to adjournment.

Present—Messrs. Higbie, Meyers, Klotz, and Chandler.

On motion of Mr. Meyers, Mr. Higbie was called to the chair.

TESTIMONY OF A. W. McPHERSON.

A. W. McPHERSON, called, sworn, and examined:

Mr. Higbie—What is your name, Mr. McPherson?

Answer—Alexander Wentworth McPherson.

Question—Where do you live?

A.—I live in Mendocino County, on Noyo River.

Q.—Have you ever had any knowledge of what is called Sioux scrip in California—how it is used in any way?

A.—I have never made use of it. I know there is such a thing as Sioux scrip; I know it as others know; I know there is such a scrip.

Q.—State if you know anything of its character, where it came from, and in whose hands it was.

A.—To the best of my knowledge, the Sioux scrip was brought to this country by William S. Chapman.

Q.—Do you know any person that had possession of such scrip, and used it for the purpose of securing land in any way?

A.—I know Sioux scrip has been located by Chapman for myself, and for the benefit of others—that is, to the best of my knowledge and belief.

Q.—Do you know anything of its character, as to whether it was really Sioux scrip, or whether there was anything fraudulent in connection with it?

A.—That I can't say; I can't answer positively.

Q.—Well, to the best of your knowledge and belief, in regard to the matter?

A.—I have heard there has been fraudulent Sioux scrip located.

Q.—Sioux scrip so issued?

A.—I have heard—I won't say it is fraudulent, for I don't know. It was illegal. I don't know really, gentlemen, what term to make use of. I have understood there was Sioux scrip located illegally.

Mr. Higbie—Well, do you know of your own personal knowledge; did you ever have possession of any?

A.—Never, sir.

Q.—Did you have any relations with any individual by which - knew as to whether it was genuine or not?

A.—I never knew whether it was genuine or not.

Mr. Meyers—Do you know any abuses connected with the of land, by which any parties got possession of land means?

A.—That I can't tell positively.

Mr. Higbie—If you know, state whether an-

this scrip in the securing of land in any place in California, or elsewhere.

A.—I have heard it said that Chapman has located scrip upon lands belonging to others; upon lands which other parties were living on.

Mr. Meyers—Is this a matter of hearsay, or of your own knowledge?

A.—It is a matter of hearsay, not of my own positive knowledge. For instance, he located scrip upon lands which I thought were mine, but to which I had no legal title. He located scrip upon the Albion Grant, where I owned, or purchased, ten thousand acres of land from the grant; but I was not in possession of the land. The grant has since been rejected, and there is scrip upon that land now.

Mr. Higbie—Sioux scrip?

A.—Yes, sir.

Mr. Meyers—But of that Sioux scrip—you don't know that the scrip that was located upon your land was fraudulent?

A.—The scrip located upon my land was not fraudulent. I have tried to hunt it up; I did my best to hunt it up. And as the piece of scrip is now upon the piece of land which I claimed, it is to my interest to see if that location is fraudulent. I have been told it is fraudulent, but I have no positive proof that it is fraudulent. The scrip itself is good.

Mr. Higbie—Who holds the real scrip?

A.—The scrip on the land, I have heard it stated, that it was fraudulently obtained. The scrip was good enough, but it was fraudulently obtained; but that I have no positive proof of. If I had, I should be very glad of it.

Mr. Klotz—That would be a question between himself and the parties he got it from?

A.—Yes, sir; that would be a question between himself and the parties he got it from, in Minnesota. I cannot do anything, so far as I know here. My object is to hunt up in Minnesota, whether that scrip is legally obtained from the Indians.

Mr. Higbie—Did you ever see the scrip?

Mr. Meyers—I suppose the scrip might be manufactured?

A.—No; I was satisfied the scrip was good.

Q.—Let me say what I was going to say. The scrip might be manufactured, and that might make it fraudulent. Again, the scrip might be assigned, and the powers of attorney in connection with it might be fraudulent?

A.—The scrip is genuine, and there is no proof here as to any fraudulency.

Q.—What I was going to say; had you, in either case, any positive knowledge that it might be fraudulent or manufactured, originated fraudulently, and then again signed by parties who had assumed powers of attorney—even on genuine scrip. You have no positive knowledge of your own of such being the fact, in either case?

A.—You want to know whether I know whether the powers of attorney were forged, or the scrip was forged.

Q.—Yes, sir; either one or the other?

A.—Now in the case I am hunting up now, there is nothing on record to show that anything was wrong. If there was anything wrong it was obtaining the scrip from the Indians.

Q.—Do you know from your own knowledge of any one improperly obtaining titles in any way so as to secure swamp or overflowed land, or University land, or what is called lieu land?

A.—No, sir; nothing whatever. I have never had anything to do

with swamp or overflowed land. I know nothing at all about that. I located land through land attorneys in San Francisco as lieu land, but I have never known of any frauds in connection with lieu land, or University land.

Mr. Meyers—Let me ask a question: Did these parties through whom you secured this lieu land—do you simply pay them for the information, or do they assume to sell you lieu lands?

A.—I will tell you. The lands I had I applied for when the maps were entered in the Land Office; when the surveys are finally made and returned in the Land Office. I applied through the Locating Agent—made application for certain lands.

Q.—That is, in the Land Office?

A.—Yes, sir; in the Land Office, through my attorney. He draws up a form, which I sign, and he makes the application for these lieu lands.

Q.—Well, to do that, he has to come to Sacramento?

A.—Yes, sir; he has to come to Sacramento.

Q.—What fee have you to pay to those attorneys?

A.—No particular fee. I just pay them for their services.

Q.—Is that lately?

A.—No; that has not been for some time. The last piece of lieu lands I bought was a year ago. I bought forty acres. I made an application to my attorneys, Mullin & Hyde, of San Francisco, and they obtained the lieu lands.

Q.—And you got them for a dollar and a quarter an acre?

A.—Yes, sir; I got them for a dollar and a quarter an acre. And I paid my attorneys a dollar an acre for it as a fee. Most of my lieu lands I got for a dollar and a quarter an acre, except this one piece; I paid for forty acres two dollars and forty cents; that was the last piece I purchased. I have also got University land, for which I paid five dollars.

Q.—Is that timber land?

A.—It is all timber land.

Q.—Did you pay the cash?

A.—I paid the cash; yes, sir.

Q.—It was claimed by a witness the other day, in the case of—

A.—[Interrupting.] I paid a dollar an acre first, and then I paid the balance afterwards. I paid my final payment some time ago—a little over a year ago. The lands were listed about eighteen months ago. You can apply for University lands and pay a dollar an acre, and pay the percentage that the law allows you to do.

Q.—Is that good timber land?

A.—Very good.

Q.—How long did you hold it? How long from the time of the application until it was listed, and you made the final payment?

A.—I made my payment immediately when I made my application, of a dollar an acre, and then immediately the lands were listed I paid for them.

Q.—How long was it from the time you made the application and paid your dollar an acre, until you had paid the balance?

A.—Oh, I held mine—probably mine was one of the hardest cases in the State. I made my application long before the law was changed, and had the lands surveyed, and had to pay for having it surveyed myself; applied to the Surveyor General, and had to pay an extra price, and then through some informality in the law—there was something wrong in the law—and I lay out of my money three years before I got my

land, and nearly lost the land I applied for. Mine was a very hard case. Then immediately the lands were listed I paid the balance. I paid them four dollars.

Q.—No bond was ever made?

A.—Oh, yes; I had to give a bond.

Q.—For the final payment?

A.—Yes, sir. If it hadn't been for the bond I should have relinquished the whole thing; because I tried to throw it up. I lost the best of my land through this mistake in the original bill. The Regents had several meetings about my case. Mine was a very hard case.

Q.—Have you any knowledge of others that have made applications for timber lands?

A.—No; I don't know; I have no knowledge of any other abuses that has been done by the University; I have, since then, bought small lots of land from the University and paid them five dollars an acre for it at once.

Q.—With swamp and overflowed lands you never had any connection?

A.—No.

Mr. Higbie—Do you know of any improper transactions in securing or obtaining lands, by any of these parties called land monopolists, from the Government or private individuals, improperly?

A.—No; I don't know of my own knowledge; I know that it has been claimed that they have obtained lands wrongfully.

Q.—Can you refer to any case or any person that is so charged with transactions which are improper?

A.—I have heard it charged that Chapman obtained large quantities of his land in the San Joaquin Valley improperly; I don't know about its being illegal.

Q.—Have you any personal knowledge of such transactions?

A.—No, sir; I have no lands there; it is only from hearsay.

Q.—Have you and he ever had any land transactions?

A.—Oh, yes, sir; he and I had a difficulty.

Q.—You had what?

A.—We had several difficulties.

Q.—Are you at liberty to state the reason of such difficulty?

A.—Well, I think the reason was that he obtained—I suppose he had a right at the time to do so—he located scrip upon land to which I thought I had a better claim, and which I was trying to secure.

Q.—That was Sioux scrip?

A.—Yes, sir.

Q.—When did he attempt to make that location upon this land by the Sioux scrip? What year was it?

A.—I think it was in eighteen hundred and sixty-eight or eighteen hundred and sixty-seven; I think he commenced as early as eighteen hundred and sixty-seven or eighteen hundred and sixty-eight to locate Sioux scrip along in Mendocino County.

Q.—Did you ever try to see a piece of this scrip?

A.—I never saw a piece of Sioux scrip.

Q.—What was the mode of his applying the scrip, or how did he proceed to lay the scrip on the land that you claimed?

A.—His brother was the Deputy United States Surveyor who surveyed that country, and, as a natural course, this gave Mr. Chapman control of the maps and knowledge of the best timber lands; and he made applications for these lands, I suppose in the regular way in the Land Office of securing scrip location.

Q.—What title did he claim to the land at the time?

A.—Well, I had really no claim myself, only that it was—we were both trying to get the land. I had no claim, only he got ahead of me, and that was the way we had the difficulty.

Mr. Meyers—What right did you have?

A.—My right was a possessory right.

Mr. Higbie—Were you in possession of it?

A.—I was of some, and some not; the fact of the matter is this: he came to this country thoroughly posted in land matters. Although I was here in earlier days, I knew less about it than he did; and the first that I knew Mr. Chapman had scrip located wherever I was.

Q.—Then, that came of his brother being a surveyor?

A.—That was the secret of his power.

Q.—It was through a species of sharp practice that he was enabled to carry it on?

A.—Yes, sir; that was the truth; his brother, being United States Deputy Surveyor, he had control of the maps.

Q.—And he pointed out to William S. Chapman where the best locations were?

A.—Yes, sir.

Mr. Higbie—And as soon as the map went to the office?

A.—He located the land; that was the cause of a long fight between Mr. Chapman and myself; it was finally ended by compromise; I got ahead of him afterwards, in some things, and we had a compromise.

Mr. Klotz—You only got one hundred acres as a compromise, and one hundred and sixty acres as a homestead?

A.—Yes, sir.

Q.—And then you claimed more land than that?

A.—When he was locating on the land I had possession—

Q.—[Interrupting.] That is the law; and then you had more land which you claimed?

A.—Yes, sir.

Q.—And that was the land that he had the same right to as you had?

A.—Legally, his rights were the same; but amongst the neighbors where I lived, in that section of country, we arranged that we should respect each other's possessory rights.

Mr. Meyers—Before you were aware of it, he came in and planted Sioux scrip on it?

A.—Yes, sir; that was the reason of my knowledge about Sioux scrip.

Q.—Whether there was anything fraudulent, in relation to this scrip, you are not aware?

A.—Well, it was to my interest to find out if there was anything fraudulent.

Q.—Well, you didn't find out, if there was anything fraudulent?

A.—Well, I think there was; but the difficulty is to prove.

[The witness here explained a portion of his previous testimony.]

Q.—Well, did the compromise grow out of his application of that scrip; or the laying of that scrip upon that land, in order to quiet that, that you might not expose the scrip, or something else, that he agreed to settle with you?

A.—It was not only in relation to the scrip, but in relation to all his other titles to land.

Q.—What other titles did he profess to have?

A.—Well, lieu land titles, principally, which were legally obtained.

There was no illegality about his lieu land titles. I think there is no illegality about lieu land titles in this State, to my knowledge.

Mr. Meyers—When Mr. Chapman laid that Sioux scrip on to these lands, what was the price that parties usually had to pay in order to get titles from him?

A.—To the best of my recollection, he charged five dollars an acre for Sioux scrip—that is, when he located it he was hired or was paid to locate it with the Sioux scrip. Some of these Sioux scrip locations—now, for instance, he has made a location of Sioux scrip upon a piece of land that I had the Albion Grant title to, which he now asks ten or twelve dollars per acre for. The title has passed to him, or to the Indians. My impression is, that Chapman has no title to that land, but the title is in the Indians. That is a case that is yet to be proved.

Mr. Klotz—That would not concern this committee.

A.—No, sir. My impression is, that the matter is a matter that might hereafter come up by the General Government. If I were to answer questions—forced questions—concerning it by the Government—but that would be out of this State. I was in this position: Mr. Chapman had the whip-hand over me for a length of time, but I finally got into a position where I got the whip-hand over him, and I could compel him to make a compromise. I was in a position to be compelled to make a compromise or lose everything. It was not right of me to compromise, but I was just in this position, gentlemen, with Mr. Chapman: he had the best of me, and could have taken everything I had in the world. Fortunately, I, from a fortunate circumstance, got the whip-hand of him, and got him in my power, and then I forced him to make a compromise. And as to his obtaining Sioux scrip fraudulently, it is my impression that he has.

Mr. Klotz—Did you ever know of Chapman laying scrip on land where parties had settled, as homestead or preëmption claims, on one hundred and sixty acres—actual settlers on one hundred and sixty acres of land?

Mr. Meyers—I understand it to be simply this: Did he locate any scrip on land that he knew to be claimed as preëmption, or that others wished to claim as preëmption?

A.—To my own actual knowledge, I don't know; but I have been informed by parties who know, and I believe that he has, and got title to it afterwards, in this State.

Q.—Did you think he was aware, in your case and in the case of the others, that timber land there that they were actually occupying, and were in possession of it—had you any reason to think that he knew it at the time?

A.—On the timber lands, I thought not. I think the timber lands were in the same position as mine. I had no more title than he did.

Q.—We are not speaking of title. Did he know that other parties claimed them, or were in possession of them?

A.—There was nobody in possession of them. I will explain that. I had this place. At that time, we were all cutting timber on timber lands, and we had no right to do it. But you know how it is; men in this State will cut timber on timber lands. I was using more lands than I had title to; I had only title to one hundred and sixty acres, and my title to the other was merely possessory; I had no legal title, and he had a right to float this Sioux scrip there. But I think, I am informed, that he has located scrip upon agricultural lands, where people have been in possession of it. I have been so informed.

Q.—You had no personal knowledge? Do you know of any case of your own knowledge where he did that?

A.—I know of one case where he did. It was in Mendocino County, and the man was defeated in the District Court, and Chapman got possession of the land. The man so informed me. I met the gentleman here after the case was tried, and he told me that Chapman had captured the land.

Mr. Klotz—And he laid this scrip on a man's possessory claim that was only one hundred and sixty acres?

A.—The way he did it was this: I understand that he promised to give the man the land when he had got a title to it; but I suppose the man probably wanted to get more than one hundred and sixty acres, and when Chapman got his title, he forgot his promise. He has afterwards floated or located the scrip on lands on which persons were in possession, and afterwards, when he saw he was going to be beaten, floated that scrip off again, and took his chances on making a compromise. Keeping scrip on land clouds the title.

Mr. Meyers—Do I understand you, then, he located scrip to make a compromise, and then would take it off and put it on other lands?

A.—I have no doubt that he has done that frequently; but I don't know it of my own knowledge.

Q.—With the same scrip?

A.—Oh, the same scrip has been all over the State, and the State of Nevada. Well, gentlemen, the proper way to find out about Sioux scrip, and where the frauds have all been—this is my way to do it, and the way it can be done—is to go to Minnesota and find out the names of the Indians or half-breeds from whom this scrip was purchased; and it is there the frauds will be discovered. There is the place to find it out. I have no doubt frauds will be found out, and plenty of them, in my opinion; and I think it is a matter the General Government ought to look to. The only question with Chapman was how this scrip was obtained; but the root of the evil is in Minnesota.

Mr. Klotz—This college scrip, if you file that on land, if you laid it on land that others have settled on, how has that been settled?

A.—You must make an affidavit before locating, that there is no adverse title to the land, before the scrip is issued, and that you have been in the possession of the land, or that you have not been in possession of it, but that to the best of your knowledge and belief there is no adverse claimant.

Q.—In case there is any?

A.—Then the college would not issue the scrip. That is all provided for in the affidavit.

Mr. Meyers—And in case you locate upon timber land—in case you do not pay down all the purchase money, do you give a bond?

A.—Yes, sir; you give a bond. At first you could make your application without paying anything. That is according to the bill; the bill gives that power. Then afterwards the Regents insisted on that point. Then, under that provision of the bill, nearly all the scrip was applied for at a very early day. Parties applied for tracts of from five to a hundred and fifty thousand acres, and that absorbed the scrip in a very short time. And then the Regents insisted that a party applying should pay a dollar and twenty-five cents an acre, and give a bond to pay the balance when the land was listed; and that stopped the speculations.

On the agricultural lands they are satisfied with a dollar and the ten per cent interest, because the land cannot be stripped of anything; but they can strip the timber land of the timber, and then not take it.

Mr. Klotz—Is Sioux scrip better than a preëmption claim?

A.—I think it is. I know in every case where there is located Sioux scrip, he has succeeded in making his title.

Mr. Meyers—The advantage is you can lay it upon unsurveyed land; that is where the abuses come in?

A.—Yes, sir.

Mr. Klotz—Parties have settled in my county on unsurveyed land, intending to take one hundred and sixty acres. Now, can he defeat them?

A.—I think not. Where a man is in actual occupation, I think he cannot be defeated. Mr. Chapman would locate this scrip upon land where parties were in possession, and hold it over them as a rod. When he saw he would be defeated, then he would withdraw his scrip.

At nine o'clock and forty-five minutes A. M. the committee adjourned.

TESTIMONY OF ROBERT GARDNER.

ROBERT GARDNER, called, sworn, and examined:

Mr. Higbie—What is the mode, if you know—I suppose you do—in relation to the location of lieu land warrants in California, and in your office?

Answer—The applications are sent there on blanks, as provided in the law, with the description of the land they desire to purchase, and also a description of the land the State has lost. That application is filed. Application is made to the local Land Office in which the land is situated. It is done by districts. Application is made to the local Land Office, asking the United States, in the name of the State, to grant to the State those particular tracts of land in lieu of these other tracts of land that the State is supposed to have lost, either by grant, confirmation, or by indemnity; what they call indemnity selections—fractional townships—where the State has failed to obtain her quota, as provided for in the law, any place.

Question—How do these parties, making application at the local Land Office, come into the possession of the facts necessary to make the location?

A.—The information is derived mainly from the office of the United States Surveyor General, and also from the local Land Offices. If the State loses the land by reason of a grant absorbing the sixteenth or thirty-sixth sections, a party would obtain information from the United States Surveyor General's office in San Francisco. If it was losses by ordinary preëmption, they would obtain it from a local Land Office, because the preëmptor, when he files his application, files it in the local Land Office, and that is the notice that the State will lose that one hundred and sixty acres of land, provided he perfects his title and makes his payments as provided by law. Then the State is at liberty to select lands anywhere else in the district—anywhere in the district, rather.

Q.—In case an individual wished to make such application, and the person—and I, for instance, if I wished to make application, could I, personally, get access to the map or maps, showing such rejection, and showing such place of lieu application as I might desire, either in your office or in the United States Land Office?

A.—So far as I know, you can.

Q.—I can?

A.—I think so; I think the practice of the Land Office, so far as I know, the records are all open.

Q.—That is the practice?

A.—Yes, sir; and also in the United States Surveyor General's office; that is my information, or what little experience I have had. I have never been in the United States Surveyor General's office but a few times.

Mr. Murphy—What is the custom in your office?

A.—They are open and free; anybody can go in and examine freely, as they do for days at a time.

Q.—Without any extra fee or charge?

A.—Without any extra fee. I have never charged a man a dollar for any information; but on the contrary I have returned a great deal of money that has been sent to me in letters, on the theory, I suppose, that they could not get the information without.

Mr. Higbie—You have that information at your command?

A.—I have not the information on which the State loses the lands; that is only obtained from the United States Surveyor General and the local Land Office.

Q.—What information have you then of such application of lieu land warrants in your office?

A.—Well, I have no information. The local Land Office has the information because they have all these plats, and the application is sent to them for them to reject or receive; if the State is not entitled to it they reject the application and that is the last of it.

Q.—Well, you stated that information was obtained at your office and without expense. What is the character of the information that they seek for, if it can be had elsewhere?

A.—The information they seek for there is whether the land has ever been applied for, and if lieus have been used previously, and to what extent, and whether they are in a condition to be used again. For instance, the State may have selected a piece of land years ago, and there may have been a preëmption claimant, and they had a contest, and the State lost the land, that would necessarily leave that lieu to be used again. They commence here. This is only a starting point; they then have to go to the local Land Office and finish it up. It is very complicated.

Q.—Why we make this investigation is, it has been reported that to secure the necessary information the parties making application had to pay a party coming in between. For instance, they made application through a lawyer, that they would have to pay him a dollar and a half to three dollars an acre for the information, and that information was got at your office, and that they had to pay for that information?

A.—No; that is not so. The information does not come from my office. The information is obtained in San Francisco. That is, it is obtained in San Francisco after the grant is surveyed. You will readily see. The grants are surveyed by the United States Surveyor General, or his deputies. The field notes are furnished to that office. The surveyor, sur-

veying those grants, has the first information, because he knows where a school section will fall. Many times a person spends time in hunting this up—this fractional piece—he knows he really has the information first, and that these lieu lands are valuable, and that the information is valuable. Why? Because lands can be taken—what we call unoffered lands, that are valuable. For instance, you have a preëmption claim and want forty acres. You can locate it if you can find forty acres where the land is lost. The State is entitled to receive forty acres of lieu for that which she has already lost. The State has those grants. She has the five hundred thousand acre grant; but under the laws of Congress she must use that land in pieces of three hundred and twenty acres, adjoining tracts; the forty acres must join, although you can take it in any shape.

Q.—Do you know of any instance in the local Land Office, or United States Land Office, where parties making applications for such information—such information has been charged for?

A.—I don't; I don't know, I have never heard of any instances—well, I don't—for a man that would be hunting this information, if he was sufficiently informed, he would not be compelled to ask for any information, if he had access to their records, neither in the United States Surveyor General's office, he would not—he need not say a word to any one in the office. He could go and examine the maps and see all they could tell him.

Mr. Meyers—I would understand you then—supposing a person wished to locate land that the State had lost, on Spanish grants, because Spanish grants covered the sixteenth and thirty-sixth sections. He would have to go to the United States Surveyor General's office for that?

A.—Yes, sir; that is, he would go there and see whether this grant—here are a thousand different grants over the State, more or less. He would go and see whether that grant did cover any portion of the thirty-sixth section.

Q.—And then, if it was in relation to the sixteenth and thirty-sixth sections, and might have been covered by preëmption?

A.—He would go to the local Land Office.

Q.—He would go to the San Francisco Land Office for lands inside of the limits of that office?

A.—Yes, sir.

Q.—And to Stockton the same?

A.—The same, Visalia; the same, Humboldt.

Q.—And you could get that information—

A.—Nowhere else.

Q.—And that would be merely the starting point?

A.—That would be the starting point for the information that he would seek, as regards what the State has lost by virtue of preëmption.

Q.—And that information would be incomplete until he came to your office to ascertain—

A.—Whether it had been used previously; that is the idea.

Q.—Further, have not the same lands been applied for, and an application obtained, when, perhaps, two or three applications for the same lieus were in the office? Has not that been the case heretofore?

A.—Well, I will explain that. Previous to eighteen hundred and sixty-eight, the State had what is known as the State locating agents—that is, they had a locating agent in each district—a locating agent in

San Francisco, a locating agent in Visalia, a locating agent in Stockton—they each had a locating agent, and these applications for State lands were made by them, and transmitted to this office, and to the Surveyor General's office; so that up to eighteen hundred and sixty-eight, these people desiring to use these lieus, made their applications through the locating agent's office. Of course the great bulk of these applications were made in San Francisco and Los Angeles districts, because great business of grants were confined in the limits of those districts. With them, it was a matter of fees; they charged, some more and some less, to applicants for making these applications; they had no salary, and it was a matter of fees with them. Well, men would call to locate lands, and they did, in many instances, locate on the same lieus two or three times, and even more than that; but, principally, before eighteen hundred and sixty-six. Well, there was so much complaint, and there was so much confusion in these titles, that the State sought Congressional aid, and the Act of July twenty third, eighteen hundred and sixty-six, was passed to cure those irregular locations, among those locations of swamp, as well as where the State segregated swamp land, and all that kind of thing. To cure—if you ever read that Act of July twenty-third, eighteen hundred and sixty-six; I forget the name of the Act now.

Mr. Meyers—What is sometimes called the Conness Act?

A.—Yes, sir; the Act of July twenty-third, eighteen hundred and sixty-six, to correct all these applications, whether there was any lieus or not. For instance, four pieces of land had been located by using one piece of lieu. There were four pieces of land; the titles were cured, and the lands were granted to the State by this Act of Congress; then, after that, it was thrown into this office, and all over the State—throughout the State—it was all done in this office, as it ought to have been years before.

Mr. Higbie—Since eighteen hundred and sixty-six?

A.—Since eighteen hundred and sixty-eight. Very little had been done, and it became so notorious, that they almost stopped lieu locations. They became so mixed up, and there has been very little of it. I have seen very little of it on the records, since I have come in; and since I came in I allowed nothing of the kind. In fact, I have never been applied to. They know it is useless to do it, and the men that gave this information, as a general thing, they go further; they agree to have the lands listed to the State. Well, in doing that they must, of course, get lieus that are good. It is to their own interest, as they cannot get their money for their information. My advice, always, to parties that have sought this information to purchase from any one that had it, has been, to make no contract with them, without they would agree to have the lands listed to the State; because there was a great many slips. It comes into the Land Office at Washington, and while the lieus may be good, you can't tell whether they are listed or not.

Mr. Meyers—Suppose there is a Spanish grant surveyed that covers a sixteenth or thirtieth section, more or less; a number of them; you go and get a duplicate of the land, or the plat, so you can get the same information as at the United States Surveyor General's office?

A.—No, sir; because they have the field notes there. The field notes certainly give the information, and the surveyor, before he reports, has information that nobody else can have.

Mr. Higbie—Don't you get a duplicate, there, of that?

A.—No, sir; only when I send and buy it; and it sometimes takes months, after the field notes are filed, before the map is made. But long

before that the land is taken up, and the lands applied for, as a general thing.

Q.—What has been the fee, if you know, as a general thing, for giving parties this information worth, for the lieu lands?

A.—Oh, it varies; I have understood—in your district for instance, I understand—that they charge two bits an acre, and four bits an acre; that is, they charge it in this way: they say to the applicants, we will find what they call good lieus, and we will do all the business for you, and have it done in Washington also, and perfect your title, by your paying the State in full. There is very little of it done any other way now, because they discovered——

Mr. Meyers—These parties are aware that if they don't have some one to look after it, not only in the local Land Office, but here and at Washington, that they will not go——

A.—Well, they don't have any one here to look after it; there is no one here.

Q.—I mean they have to send their applications here?

A.—They send them here and they are filed and transmitted to the local Land Office.

Q.—What I mean, it has to be pursued on to Washington, and they have it listed, and if they don't do it——

A.—It is like all other business done there; there is nothing done there—even take the claims of the State to-day. I am writing almost every day to the Department to have lands listed to the State—all kinds of lands. It has to be done. You have to call their attention to these things many times. In fact, the Washington Land Office is a great big Department, with hundreds of clerks, and only one man to supervise them all.

Q.—Their labor is routine work considerably?

A.—Yes, sir.

Q.—They take up one State at a time?

A.—Yes, sir; one State or one district. Of course they take it up, and when there comes a contest they lay it aside. They go through all cases where they are plain; but it needs some one to call their attention to that contest, as it exists in fact.

Q.—What is your opinion; have not as many if not more lands been taken now for lieu lands than the State will have ever any just claim to?

A.—No, I think not; no, I think not.

Q.—Well, are there not old applications laying here for ten, twelve, fifteen, or twenty years, that have never been listed?

A.—Oh, yes, sir; there are a great many; a great many that can't ever be listed.

Q.—Well, is there not danger that if these applications are continued, that some old applications will be crowded out?

A.—No, sir; they are required in Washington to list by numbers; the earlier applications first.

Mr. Higbie—Well, do they do that?

A.—Yes, sir, they do that; prior to eighteen hundred and sixty-six—since eighteen hundred and sixty-six—all old applications on file before eighteen hundred and sixty-six are cured, where the lands were sold. There are no applications on file, really, but what titles have issued. There are a great many applications on file; they have been filed for different reasons; that they never expect the land to be listed; but where the title was issued previous to eighteen hundred and sixty-six,

the State will get that land—what was sold before eighteen hundred and sixty-six.

Mr. Higbie—You were informed, when in San Francisco, that some of these lien land warrants, that have been located within the last eighteen months, have been completed—the title perfected; while others, that were eight years old, and equally good, had not yet been perfected, all through, yet—they have not been issued in their order; but if they had somebody to attend to it—

A.—You might pick out a single case; but it was because of a contest; there might be a contest in regard to that particular tract.

Mr. Meyers—The testimony ran something like this: that all lands had been listed where there substantially was no doubt or contest; that Mr. Hastings had attended for two dollars and fifty cents; and then, only, where there was no doubt; but where there was doubt, he never touched them at all, unless he was well feed for it?

A.—Well, I have heard a great deal about that. I had the office abolished.

Q.—And, furthermore, older applications were neglected; and this was testified to by parties dealing in this matter, that later applications went right through, and there never was any trouble about it.

A.—Well, I don't think that is so, as a general thing; it is not general at all. Here, we got a list the other day where some of the oldest lands ever applied for were listed the other day.

Q.—Well, that went back of eighteen hundred and sixty-six, didn't it, what you speak of now?

A.—Yes, sir; some of them were prior to eighteen hundred and sixty-six; some since eighteen hundred and sixty-six—along in eighteen hundred and sixty-seven and eighteen hundred and sixty-eight.

Q.—Well, the Conness Act, then, failed to cure all of those cases?

A.—Well, there was very few after eighteen hundred and sixty-six. These numerous applications were filed along in eighteen hundred and sixty-two, eighteen hundred and sixty-three, and eighteen hundred and sixty-four, and along there.

Q.—Wouldn't it be a good idea, in order to protect these older applications that have never been listed, to prohibit applications, at least for a year or two?

A.—Oh, I think not; I don't think so; I take a different view of that; I think—now, for instance, last year my report shows that I had ninety-nine thousand acres of land listed. The lands are being listed right along; in the last few months there has been some listed in San Francisco and Marysville Districts; and now, there was a large list made up in your district, the other day. The lands are being listed right along. No, I don't think that it ought to be done. We discussed that subject—we had that matter all up before the Committee on Public Lands of the Senate.

Q.—Have you any idea of the amount of land applied for now, that is not listed?

A.—No, I have not; but there is a great deal of land applied for that has not been listed and never will be, or can be; that was originally applied for in railroad limits. But there are very few bona fide State claims that are not listed, or cannot be. The lieus are good. There is no reason why they should not be.

Mr. Higbie—Several gentlemen in San Francisco, among them Mr. Shanklin, thought—

A.—Yes, sir; I know. He has talked with me about it some. It is

pretty hard to get at—something that cannot be definitely ascertained. But still he says—he tells me—that of course it is pretty hard to tell. Of course, there is very little lieu accruing now, although we are trying to get considerable lieu to the State. I am making a test now, before the United States Department, trying to get the State allowed a good deal of lieu in lieu of what we call swamp lands, upon the decision of which an immense amount of lieu will accrue to the State, if we succeed—

Q.—You mean the sixteenth and thirty-sixth sections, where they fall on swamp lands?

A.—Yes, sir, where they fall on swamp lands.

Mr. Meyers—Is there any party there pressing that matter—making the proper representations?

A.—Only myself. I want to go on there after the Legislature adjourns, and make that one part of my business, and see that that is done. It is an immense thing for the State. You see, these swamp lands are granted to the State under the Kansas grant, and the State gets no money for them. They simply hold the lands; she gets nothing; the money is simply held in trust, and paid back to those who reclaim them. It is a question that has been thought of a great deal, but it was never acted on until I came in here. I made a test case up, and sent it on there, and my advices are that they look more favorably upon it than they did some time ago.

Mr. Higbie—Ought that not to be applied to the mining regions?

A.—They decided against it, but I will try to get that ruling reversed. The United States is very illiberal if you let them make their own rulings; but when you go before the Department and argue the cases, and show them the law and the importance to the State, they have always been very liberal, and I think the State will win upon that, with other points which will be presented, and this will add a large amount to the School Fund, because these lands all will be taken. A mining claim may take ten, or twenty, or fifty acres out of a section. Still, there is a great deal of scattering, all over. Of course the State and United States conflict with regard to the sixteenth and thirty-sixth sections inside of the mineral belt. The State claims she has a right to sell those lands, and the United States says "not." The decision of our Supreme Court here is that the State can sell it, and that matter will finally be adjudicated by the United States Supreme Court. I have acted upon that theory, that the State owns those sections, and having sold them along where there were no mines on them. For instance, these lands are returned as mineral by a surveyor. It may be all agricultural, timber land, or there may have been gold dug out over twenty years ago, and it may be more valuable for agriculture than for minerals. I have never paid much attention to those withdrawals on the part of the deputy surveyors. There is not one man in five hundred knows how to secure these lieu lands. He has to be well posted in land matters, and in the general topography of the country, and to do that he wants pay. He really don't sell anything. He simply—it is a curious kind of information—it is a complicated piece of information, that he sells.

Mr. Chandler—He gets paid for informing himself?

A.—Yes, sir; there is nothing wrong in it.

Q.—But these gentlemen educate themselves up to that point, and then sell that information?

A.—I tell you, I, myself, to-day, that if I wanted one hundred and sixty

acres (in Los Angeles District), I would have to go to the Los Angeles Land Office to find it, and go to San Francisco, too, because that district has been cut in two, and it is very complicated between the two; and these people that buy these lands, they think there is a swindle somewhere. They think I may get some of it, or the man at San Francisco, or Los Angeles, and they don't know how it is, and they think it will bear investigation. I have never received a dollar, and never had any money offered me, because I have not got the information to sell, and have not got it, in the first place.

Mr. Meyers—Would it be much trouble, or is it an impossibility to ascertain by the records in your office, what amount of land there was that probably ought to be listed that is not listed?

A.—Well, it is almost an impossibility to do it, because the records of my office wouldn't show. On their faces it would appear so; but when you come to look at that land you want to see, it may be preëmpted or sold under the Act of eighteen hundred and sixty-six, or taken under a railroad grant, and they have to inquire into all the details of that application, but I have made up. When I went into the office, I went all over every application in the office, and sifted out as near as I could all applications that ought to be listed, and on that list there has been ninety-nine thousand acres of land listed, since I came in the office, up to the first of last August. Since that time there has been considerable more listed. I have had a great deal of land listed in old claims, because it is important to the State, and because, under the State law, parties can't get their patents until the lands are listed.

Here the committee adjourned.

SIXTH DAY'S PROCEEDINGS.

THURSDAY, March 19th, 1874.

The committee met at fifteen minutes past nine o'clock A. M. Present—Messrs. Meyers, Higbie, Klotz, and Chandler.

On motion of Mr. Meyers, Mr. Higbie took the chair.

TESTIMONY OF WILLIAM S. CHAPMAN.

WILLIAM S. CHAPMAN, called, sworn, and examined:

Mr. Chapman—I will answer, or attempt to answer, as briefly as possible, the charges that have been made by each party, wherever they have any definiteness to them. In the first place, Mr. Barnes was about as respectable a witness as appeared before you. He said a note had been sent him from the East, to collect, which I repudiated. The circumstances of that case were these: Clark W. Thompson, of Minnesota, came to this country with Chippewa scrip, to locate, himself; he found

he could not locate it upon the land that he had come to locate it upon, and turned it over to me to locate for him. I could not locate it, when the land was surveyed, on the land which he wanted. The scrip was not applicable to that class of land; it was double minimum lines. Then he wrote out to me, asking me to buy it. I bought the scrip, and made some locations, which were refused by the Department, emphatically; the subsequent Secretary of the Interior decided that the scrip had been issued inadvertently; there was no authority in law for the issuance of the scrip, and that the Department would receive no more of it. I paid for the scrip which I had located, and which had been patented, and returned the balance; and the note he claims to have been sent here was not a note, but an order—an order from Thompson, from the party who was the real owner of the scrip, Mr. Doyle, to pay so much money. I paid on the order for the amount I had used, and returned the balance. I refused to pay the balance of the order.

Mr. Higbie—In the meantime they had decided at Washington that the scrip was illegal?

A.—Yes, sir; and refused to receive any more, and I paid for what I had used of it, and returned the balance. I explained the whole thing to Mr. Barnes at the time. Mr. Barnes explains that it was a note of Sioux scrip. I never had anything to do with Sioux scrip—but it was an order on me for Chippewa scrip, which the Department had repudiated. What I had used I paid for, and what I did not use I returned. If I could have known that Mr. Barnes was to have been on the stand, and could have seen him and talked with him, he would have made a very different statement from what he did. I do not mean to say that he misstated, but it was a long time ago and he had forgotten all about it. It was not in good taste for him to make any statement at all about it. Now, Mr. Robinson was before you. He stated as to the matter of bribery in which Mr. Kimball was concerned, that Mr. Hardenbergh had told him that I had offered him five hundred dollars. The circumstances of that case are these: Mr. Kimball wished a survey made, in which there was some land in townships in which there was swamp lands. He came to San Francisco bringing with him money to deposit to make the survey at his own expense, as there is a law authorizing parties to make deposits for that purpose. He came into my office when he was there and told me what he was going to do. He came in to inquire of me if a Mr. Carlton was a good surveyor; if I knew him, and whether he was a good surveyor or not; I told him I did, and that he was as good a surveyor as there was in the State, but I said: "Mr. Kimball, here is an appropriation of seventy thousand dollars to make those surveys with; the Surveyor General ought not to require you to make a deposit for that purpose. That law allows parties to make deposits if no appropriation exists; but here was an appropriation of seventy thousand dollars, payable in a very few days. I do not believe the Surveyor General will require you to make that survey at your own expense." He said: "I wish you would see him about it, and I will leave my money with you, and if you cannot get it out of the public fees, the money appropriated for that purpose, deposit this money and have it made." So he left the money with me, and I went to Mr. Hardenbergh the next day, and I told him: "I do not think that you ought to require a citizen of California to make a deposit for a public survey, when the United States had advanced seventy thousand dollars for that purpose." I said: "I do not think you ought to require it." "Well," he says, "I do not think so eith-

er;" and he let the contract to Carlton out of the public money, and that was all I ever had to do with it. After the survey was made Mr. Hardenbergh refused to approve it, because it was returned as swamp lands; and Kimball came to me and wanted to know what to do about it. I told him: "I do not know what you can do about it. I have confidence in Mr. Carlton's report. I believe it is as he reported it, but Mr. Hardenbergh is running this institution on his own ideas, and I do not know what you can do about it." He says: "Is there any way he can be reached." I said: "I do not know how you can reach him, but if you want to use any money in that way go to J. P. Dyer"—J. P. Dyer is his broker; I was satisfied that he was, for I saw him running in and out there all the time—"if you want to do this business in that way go to him; and if you want to test the thing before the Department, it is best to appeal from Mr. Hardenbergh's decision and send it up to the Department. That is all I can say now." He went out and saw Mr. Dyer, as he told me afterwards, but did not tell me if he succeeded, if he had made any arrangements; but I was informed by Mr. Carlton that Mr. Ralston and Mr. Tyler, after Mr. Kimball returned home, Mr. Ralston and Mr. Tyler paid Mr. Kimball each one thousand dollars to bring down to San Francisco and pay for the approval of that survey, and make the survey so approved. Now, I do not know the facts of the case, but I am just as well satisfied in my own mind as anything, that the two thousand dollars was paid to J. P. Dyer.

Mr. Higbie—That was what was meant by J. P. Dyer being Mr. Hardenbergh's broker?

A.—Yes, sir; and he was his broker all through the office. I do not think any of those men will deny paying Mr. Kimball one thousand dollars each to get that work approved. I never paid a cent, and never had a cent's worth of interest in it, and I didn't charge Mr. Kimball one cent for doing what I was going to do for him; but I succeeded in getting it done out of the appropriation of seventy thousand dollars. Mr. Hardenbergh testified, I asked where his wife was; I met him in the street and asked him where his wife was; I offered to send the money to her in Minnesota. Now, the truth is, I never met him in the street and asked where his wife was; I didn't know where his wife was, and I never said a word about his wife. I never had any interest in the land, and never saw the land, and have not now an interest. As Mr. Klotz, who lives up there, well knows, I do not even know where the land is, and never saw it, or knew anything about it; only knew the survey hung fire until he went up and collected the money.

Mr. Higbie—Who went up and collected the money?

A.—Mr. Kimball from Mr. Ralston and Tyler. I don't think either of those men will go back on it.

Mr. Klotz—The land is actually swamp land.

A.—I knew that by Mr. Carlton's report; for I have known him for ten or twelve years, and he is an actual surveyor—as good as there is—and he never reports an untruth. I don't mean to cast any reflections on Mr. Kimball. I feel upon these things different from what most people do. Mr. Kimball wanted his survey approved, and he knew that the survey was correct; and if he did pay the two thousand dollars to get it approved, I do not blame him, if he could not get it without. Now, Mr. Hardenbergh has never approved a survey of any kind, that I know of, unless there was some object in it. For instance, you make a deposit; that the township is surveyed under the State; you do it for the purpose of getting the title to your land; you go to the office repeatedly

month after month, and you cannot get your maps until you pay thirty or forty dollars for them. Are you to blame for that? I don't think you are. Jesse D. Carr paid Mr. Robinson three hundred and fifty dollars to have maps in his case sent to the Susanville Land Office. Mr. Robinson comes on the stand and states that Mr. Carr attempts to bribe Mr. Hardenbergh through him. I knew Carr paid the money to Mr. Robinson before he could get a map out of the office; and yet Robinson says he tried to bribe Hardenbergh through him. That was the way it was done. Now, Mr. Hardenbergh says a great deal about half breed scrip, forged powers of attorney, and forgery of the scrip. I wish to explain to this committee something about half-breed scrip. There was a large tract of land on the west side of Lake Pepin, in Minnesota, given by the Government in exchange for lands owned by Indians, and was reserved by the Sioux tribe for the half-breeds of their tribe, and it is known as the half-breed tract. I think that was in eighteen hundred and thirty-three. A great many years afterwards, there were towns built there, and white people settled on it, which was in the nature of a trespass. The question was agitated for a number of years, and finally Congress passed a bill authorizing the purchase by the Government of that tract, and the issuance as payment to the half-breeds—for the issuance of as many acres of scrip as there was land in the tract. First, an enumeration was to be had of the number of half-breeds, and then the tract was to be divided equally between them; and the number of acres which was to be issued to each half-breed, of scrip, was four hundred and eighty acres; issued out to each half-breed. The four hundred and eighty acres was issued in five pieces—two pieces of forty acres each, one piece of eighty acres, and two of one hundred and sixty—to every half-breed that had an interest in that tract. That scrip was arranged in a book, and the scrip was cut off, or torn off, leaving a stub. The scrip was filled out by the Government to the half-breed; the officers of the Government authorized to do that signed their names to it, and a prepared memorandum made on the stubs, and the five pieces of scrip were then cut off, or torn off. Before the scrip could receive his scrip, he had to deed to the Government his undivided interest in the tract, and to surrender the deed to the Government. He drew his scrip, signing his receipt for it. Now, that scrip was made locatable upon some tract of land—the half-breed tract of land, or any other land the Government had—surveyed or unsurveyed.

Mr. Higbie—Anywhere in the United States?

A.—Anywhere in the United States. Now, when a piece of scrip is located in any State it goes to the Department, and it goes right to the Stub Book, and there the return of it is noted on the stub: such a piece of scrip, of such a number, letter so and so, located in such and such a place, and located so and so. When the next piece comes it will go there to the same book, and will be fitted to the stub, so it will be impossible to forge a piece of that scrip and get it through the Department, no matter how successful a forger the man may be, because if the sixth piece would come after the five pieces were there, of course it would appear at once that it was a forgery; and to successfully forge a piece of a scrip would be to get a piece of paper, exactly the same size that the stub would show, and the same kind of paper, and filled up by officers in the Department at Washington, and the names of two officers of Government, to forge that piece of scrip. That would be the process you would have to go through, so it would be an utter impossibility, and the best forger in the United States could not succeed,

because the piece would have to fit the stub, and you could not have the stub to fit it to. There has never been anything of the kind done, and most of this scrip has all been located, except two or three thousand acres, and there never was a case of that kind occurred, and it could not be. It would be simply an impossibility.

Mr. Meyers—You say there are still two or three thousand acres of that scrip unlocated?

A.—Yes, sir. In that tract, so far as forged powers of attorney are concerned, no man can get the scrip until the half-breed files his deed to the Government. If you can go and buy it before he can receive the scrip—if you can get him to do that, and to sign you a power of attorney to locate, by the same means you can get him to sign a power of attorney of the same. After he has got the scrip, how can you get it from the half-breed without paying him for it? You can get it by the same means you could get the scrip out of his hands. You get the power of attorney the same way. It is simply nonsense, and the slander grows out of the fact that Mr. Hardenbergh was once Surveyor General, and is not now. That is all that produced this whole thing; nobody ever forged a power of attorney, or ever attempted to do it, as I have ever heard. Now there has been something said before this committee about marking maps in the Stockton Land Office; about my having an arrangement by which, if anybody called for lands, that it could be called entered, and I would go and take it. The first time that I was ever in the Stockton Land Office, I found T. P. on some sections of land on the maps, and J. M., and some other initials, which I have forgotten now. I called the attention of the Register to it, and asked him what it meant; and he said these parties had located the lands, and he had permitted them to mark their initials on the map; but in all cases they paid for it within the month, or as soon as they could make the necessary arrangements. Mr. Paige was the man that marked "T. P." In the suit I had with Paige, in McKinstry's Court, in San Francisco, he testified that he had marked the maps himself; and Mitchell had, before I ever had; but when I made selections, I marked "W. S. C.," and I instructed Mr. Knight, who was then Register, that if any settler called to get any lands that I had selected, or even if I had completed the entry, that he should inform the settler that he should have his land at the Government price; that is, if I had not made the entry, or had simply marked my initials on it. I authorized him to sell it to any man that claimed to be a settler, or even to parties living in the vicinity. I instructed the Receiver, Lindsey, in the Visalia Land Office, that if any man called and claimed that I had made the entry, and claimed to be a settler upon the land, that I would sell him the land at the Government price, and not limit him to one hundred and sixty acres, though, of course, I would not give him all. I made that statement publicly, and acted upon it in the Stockton district, and deeded land on paper to twenty or thirty different persons, and in many cases after I had paid for it I let them have it at the Government price; and the circumstances became so notorious up there that the privilege was abused. Some two or three months after that I entered a quarter section—a person came to me and told me he lived on it—and it was a great detriment to me to lose the land—I immediately deeded the land to him, and when I started away—as soon as I started away, he said, "I have got the best of that damn fool." The truth of the matter was, he had never lived on the land. After that, I shut down on it, and the Stockton land officers, and the clerks who are now in Stockton—the Receiver who was there, he was a party

to it, and I instructed him to do the same thing; and Mr. Knight has been here all this week, and he will testify that I deeded land that I had up there, over and over again, to settlers, at the Government price, and not a single instance did I ever charge a settler any more than he would have had to pay to the Government. Now, I did mark the maps in that way, because others were doing it, and it was the rule; but I always entered such land, if I did not let somebody else do it; and I want to state to this committee, that in no single instance did I ever enter a piece of land, or claim to enter it, when I had not; that I never instructed the officers, or they never permitted me to enter a piece of land that anybody else had applied for. Now, as to the Sierra Valley matter. There has been a great deal said about the Sierra Valley. I bought an undivided half interest in the applications for that land that had been made by Mr. Smith and Mr. Goodwin. They came to the city, and represented to me that the land was swamp land, and they did not understand about such matters, and it was contested, and that he wanted me to take an interest in it and help them through with it; and I refused to do it, until I had sent up myself and had the lands examined. I sent up and had it examined, and it was reported to me to be swamp land; and then I agreed to take it upon these conditions: that if any actual settler on that valley occupied any land there, I should have the exclusive right and privilege to sell the land to that actual settler at my own price, and on my own terms. I told the parties that I had not seen the land or the residents, and I do not know how much conflict you have; but I won't touch it, unless we have the understanding that I am to have the privilege of settling with every settler for the land which he has. I will sell it to him at such rates and on such terms as I choose. If you want me to take half the land on those terms, I will do it; otherwise I won't touch it at all. If the thing had gone through, every settler in that valley would have got his land at less price than it has cost him to-day to contest it. That is all I have got to say about Sierra Valley. In regard to Mr. Allee, he was my clerk—I was away from my office a great deal. He kept my books and my papers, and I even authorized him to sign my name to checks. He had complete charge of my books, and all my money went through his hands. He stole my press copy of letters, cut them out of my book, and sold them. I had a contest with Mr. McPherson—and all the letters I wrote my attorneys in Washington, instructing them to manage the case, they were cut out and sold to Mr. McPherson; and some time afterwards I found a note given by Allee to Mr. McPherson, amongst his papers—a note for one thousand dollars—my clerk signed it, and sometime subsequently had taken it up.

Mr. Higbie—He had signed a note against you?

A.—No; against himself. He had given a note to Mr. McPherson for a thousand dollars, and subsequently had taken the note up. Mr. McPherson got those papers. I wanted to be present and hear his testimony in regard to it; it has nothing to do with the land frauds; I would not have mentioned it if it had not come up. Now, Mr. Hardenbergh has made a great many statements about swamp land. What class of lands are swamp? His statements, to any man familiar with the land laws and the rulings of the Department, are simply ridiculous. Mr. Hardenbergh don't know anything about land laws. He said that after surveys and segregating of swamp lands there was no appeal, for they are final. That is not correct, and just shows that Mr. Hardenbergh don't know anything about it; but he knows this much: Giving the contract to O. P. Galloway, of San Diego, to survey all the swamp

lands along the Colorado River, covered by about eight or ten townships—I think ten townships. The contract is now on file. O. P. Galloway is a citizen of Mexico, and renounced his allegiance to this Government, and declared his allegiance to the Republic of Mexico, for the purpose of taking a grant there of the State lands. He is not a surveyor, and don't know a compass from an hourglass, and Mr. Hardenbergh knew it when he let him have the contract. Mr. Robinson was chief clerk, and some other officials were each to have a fifth, or Mr. Galloway was to have a fifth part interest.

Mr. Higbie—How could he authorize the survey to be made of land that is in Mexico, as I understand?

A.—The land itself is in California; but he let a contract to a citizen of Mexico, who has applied to the Mexican Government for a grant of land immediately adjoining this land, at south of the line, in Mexico. Now, this man Galloway is no surveyor at all; but he has a young man by the name of Clayton employed to make those surveys. When filed—when it comes in—they will come in as taken by him, and Clayton's name would not appear at all; but Mr. Robinson, and some four other parties, were to pay for the whole swamp land survey; and Mr. Galloway was to have one fifth interest, clear, for these surveys. Mr. Hardenbergh is a party to that, and knew all about it; and yet he claims to want to develop to this committee and to the State, frauds in public lands. That contract is down there in the office, and you can see it at any time. Mr. Stratton is the present Surveyor General, and is a competent man—the most competent that was ever in the office. The chances are they won't get the thing through; but under the laws that are passed by this Legislature it won't amount to much, because you cannot apply for land, except in small quantities, under the laws passed by this Legislature.

Mr. Klotz—Which laws?

A.—The laws restricting locations. I think I have nothing more to say; but I would like for this committee to ask me any question in the world that they are prepared to ask me.

Mr. Klotz—You heard me ask Mr. Allee, down there, about this dead Indian that came to life again?

A.—Yes, sir. Now, the particular Sioux Indian that he spoke of—that Sioux scrip—I bought, since I have been in San Francisco, from a Minnesota man, who came to San Francisco with a thousand acres of scrip, amongst them was this piece of Indian scrip, that was represented to be dead. Well, that may be so. You buy a piece of scrip four years ago, and have a power of attorney; the Indian may die, and, of course, the power of attorney dies with him. I have been sending back, and have been informed by the most reliable information I could get, that the Indian was in San Francisco a few months ago with the Fiske party, and returned home since the time it was reported he was dead; but he was killed by a hostile Indian up on the Red River of the North since the location of the scrip. That is the best information I can get about it. I think it is all true. I bought the scrip in good faith; I did not know the Indian was dead, and I did not kill the Indian; if he died, he died on his own account, and I should not be held accountable. That is all I know about that.

Q.—So you get the scrip from somebody else, and if he got it fraudulently, you don't know?

A.—I bought the scrip from Mr. Randolph, who is now in San Francisco, and I paid him for it. The powers of attorney were all right and

straight, so far as I can see; the power of attorney always accompanies the scrip.

Mr. Chandler—And it is worth nothing without it?

A.—No, sir; it is not worth a cent without it.

Mr. Meyers—The party from whom you bought the scrip is now living in San Francisco?

A.—Yes, sir; besides, the power of attorney is located by Wheeler (?), the statistician of Minnesota, and he is as honorable a gentleman as there is in Minnesota. There is none more so.

Mr. Higbie—You state that Allee purloined that power of attorney, those papers, letter, and so on, and gave them to Mr. McPherson. What object had he in view in that?

A.—His object was to give Mr. McPherson the advantage in the contest. Now, I had located scrip on the land that McPherson claimed. The circumstances were these: McPherson has a mill on the Inyo River. Immediately north is a stream called Pony Creek, emptying on the coast. I located the timber on that stream. It was unclaimed by any one. Subsequently, McPherson said he claimed it; that it was his stream; and we had a contest about it, and I had instructed my attorneys in Washington of the case, and of all the weak points, and told them just how to manage the case—just as you would talk to your attorney in any other case; and those leaves were cut out of my book, and the powers of attorney giving the scrip, were cut out and put in his hands, and my locations and papers left were of course of no avail.

Q.—You say the powers of attorney were taken from the scrap book?

A.—Yes, sir; and sold to Mr. McPherson.

Q.—The power of attorney was not attached to the scrip?

A.—Yes, sir; the scrip is always issued accompanied by two powers—one to locate, and the other to sell the property after location. The one to locate always accompanies the scrip. There were five pieces of scrip. Sometimes the half-breed would make one power of attorney to locate all five pieces, and sometimes to locate only one. Suppose I used that in Carson City, as I make a great many locations there. I locate one piece of scrip, and with it I file one power of attorney, and that accompanies the piece to Washington, and is located there, and I have no power to locate in San Francisco, because the power is at Washington. But I locate the scrip in the San Francisco office, and I make application, and I state that the power of attorney authorizing its location will be found on file in Washington, with Carson City location number so and so. Then I make four applications in the San Francisco Land Office, without authority to do so, the former being in Washington. Now, Mr. Shanklin stated that I made frequent locations in his office without having any authority at all. That is the way that is done. Then in other cases there would be five pieces and five powers of attorney to locate.

Q.—That was so done to intimate that that was the power?

A.—Yes, sir; I made a great many locations that way, and they were always approved; and then I made applications in other cases with powers, with each piece of scrip, and Mr. Shanklin testified that I frequently made applications in his office without any power at all; and that is the way I did it, and often, in Minnesota, I made applications there in the same way, and kept an account of it, and when I made locations here I referred to the authority to locate as being used in the Minnesota Land Office—power so and so, number so and so, on file in Washington, and they were always approved.

Mr. Higbie—I can see, because a reference to that power of attorney there would show whether this was correct or not.

A.—It would be foolish for me to make a location in San Francisco, and refer to a power that did not exist. It would be a waste of time, because it would come back from the Department, that there was no such power there. It would be useless, and it would be silly to do it. Now, I never located a piece of scrip in this or any other State on any settler, though I have had a great many contests. The way they arose would be this: You have settled upon unsurveyed lands, and claim a thousand acres. You get your furniture and fences and buildings put up and everything. Now, people are not always satisfied. The public surveyor comes up and divides your quarter section up, and squatters jump into your fields; and when the whole circumstances of the case are made known to the Department, there is not one instance where my scrip was ever canceled, and it was always approved and the patents obtained; but in no other case have I ever made a location of any nature—College scrip, University scrip, military land warrants, or anything of the kind—on any settler; and when Mr. Swift, a member of your body, was Register in San Francisco, at the time I made nearly all my applications of scrip, I told Mr. Shanklin and Swift, "If you ever find me locating on a claim under any circumstances, except where there is a squatter there—if I ever go to make such a location, I authorize you to sell the location and return the scrip to me; you are authorized to sell the location at once." Mr. Swift will testify to the same thing, if he remembers it.

Mr. Klotz—On filing on this squatter land, did you help the first settler?

A.—I did it a hundred times.

Mr. Meyers—That proceeding of Allee's; what advantage did it give to Mr. McPherson?

A.—It gave him all my points. It gave him as much advantage as though my attorneys had turned over and worked for him. In fact, it put him almost in my boots; and not only that, he held the powers of attorney which I had located, and if I succeeded and got the patent, it would not be worth a cent to me. That is the way—that was why I settled with Mr. McPherson.

Mr. Chandler—He held the powers of attorney to sell?

A.—Yes, sir.

Q.—He got them through Allee?

A.—Yes, sir.

Mr. Higbie—Did he assign the power of attorney to McPherson?

A.—No, sir; McPherson could not use them. They were powers to me. Of course McPherson could not use that power; but neither could I. They were gone; I didn't have them, and McPherson didn't have all. They were deposited in five different places around there, with a great many other papers. It may appear strange to you that I didn't commence legal proceedings at once. The reason was, that I could not find them; and if I could find them to-day, they would not be there to-morrow. To-day my attorney might see them in one place, and to-morrow they would be gone.

Mr. Chandler—I believe it is claimed, Mr. Chapman, that these powers of attorney to sell were the ones that were forged; that you have re-

ceived these powers of attorney to locate the land, but not the power of attorney to sell?

A.—Well, now you can see at once how inconsistent that is. If I could go to a half-breed and get his power of attorney to locate, why could I not get his power to sell, in the same way. I could get it only by giving him its value. If there is a half-breed in the world that will come forward and say that I didn't pay him for his scrip—it is foolish. I have had property there ever since I come away, and if any half-breed in Minnesota has been wronged by me, he could go to a lawyer and commence proceedings against me. The possession of the scrip would show the power to locate, and it follows necessarily that the money that will buy the scrip, and the power to locate, will also get the power to convey; because it would not be worth anything to me without. I wouldn't pay an Indian a cent to get his power to locate, without the power to sell.

Mr. Higbie—Are you at liberty to state whether Mr. McPherson took advantage of the papers thus placed in his possession by Allee, and what the result was?

A.—The result was, that Mr. McPherson had the best of me in several conflicts. That was all there was about it; that was the long and short of it. Mr. McPherson obtained the best of me in that way; but he didn't have the whole thing by any manner of means, nor more than one fourth of all the papers stolen. They were deposited in different places around. Mc— and Gurnee were my attorneys at that time, and they went around to Allee's office, and there obtained an endless number of letters and papers. Well, he had an abstract of everything that I had ever done in this State; he had a complete abstract of everything, and gave it up to them in his room. Then I had still more papers out, and there are still some out; I have not got all yet. But the most important paper he stole from me was a receipt. I settled with Mr. Paige the fifth of May, eighteen hundred and sixty-eight. I deeded him an undivided half of twenty-eight thousand acres of land. I settled all my business with him up in full, and in an office I wrote a receipt, describing all, and stating that the delivery of that deed was the final settlement between him and me; that that deed covered all lands in which he claimed any interest with me, and my recollection is, that my receipt and the name would be signed in about that position on the sheet of paper [showing]; that receipt was gone. I never was able to get it. Mr. Paige afterwards commenced an action against me, claiming to be my partner—some two years after that settlement—claimed to be a full partner. I had a suit with him in Mr. McKinstry's Court, and the decision was, on every point in his complaint, that it was untrue; and I never was a partner with him, and that I settled with him on the fifth of May, eighteen hundred and sixty-eight, and took his receipt in full. The evidence was so strong that the Judge thought I did make a receipt, and so his decision was this: that I paid him in full, giving him two land warrants, ten pieces of scrip, and after that, I took a receipt in full. Now, that receipt I never was able to get, but instead of that, I found a contract with Mr. Anthony here, Allee's friend, in which Mr. Paige agrees to give Mr. Anthony eighteen thousand five hundred acres of my land, if he wins the suit now commenced. Mr. Paige acknowledged it, but Mr. Anthony told me he never saw Mr. Paige, and didn't know him, and never knew anything about it. Mr. Allee stated the circumstances—that he took it in his friend's name, without consulting his friend about it. That suit, which

cost me twelve thousand dollars, accrued out of the selling of that receipt. Mr. Paige bought that receipt from Mr. Allee, and gave him that other receipt in consideration. That was pretty flat stealing. I have been getting those papers in ever since they were stolen. It was in June, eighteen hundred and seventy, and I have not got them all yet.

Mr. Klotz—Is there no way to prosecute him for that?

A.—I might prosecute him for stealing a power of attorney. Well, to do so, it would be necessary for me to have the power of attorney. I did prosecute him once, and then let up on him. This receipt I considered of more value than any other paper he got, and finally, when I got hold of this, I abandoned the suit. The powers of attorney lay in the Chief's office now. I never touched them, for the reason they claim they were forged, and I never took them out; I thought I would leave them and let the people see them if they wanted to. And the reason I let up on him was, because this receipt was out, and the detectives believed they could get it.

Mr. Chandler—Did he make anything out of the McPherson case?

A.—He stated on the stand that he got about seven thousand dollars, all told. He stated further, that Mr. Paige paid him one hundred dollars a month from the time of the commencement of the suit to the time of the trial. Now, when Mr. Hardenbergh made the charges in the paper that he did, I replied to all his charges in the *Chronicle*, in December, and in that reply I advertised for any man, any settler on the public lands, or anybody who had an equitable title of any description, who had been deprived of it by any location I had made, to come forward, and he should have his land without paying a cent for it at all. I have not had a call. There is not a settler in the State of California who has been wronged out of an acre of land by me; and Sioux scrip is as legitimate a land warrant as was ever issued by the Government. It was simply an exchange that the Government made with the Siouxs for a very valuable tract of land.

Mr. Higbie—They all admit the legality of all the scrip, but where the question arose and the trouble came in, was concerning these powers of attorney.

A.—Now, you can see how ridiculous it would be to suppose a power of attorney to sell would be a forgery, when the possession of the scrip would be some evidence that it was paid for. The half-breed could not get it from the Government until he deeded his interest in the tract and it went to the Government, and then he received it legitimately.

Mr. Meyers—And no land could be listed on any scrip that was in excess of the amount.

A.—It could not, because each man's name was recorded there in the Department; an agent was sent out to record the number and name of each; and each party who deeded to the Government received a receipt for his scrip; and there was a book containing all the numbers and the stubs from which the pieces of scrip are torn; and when it goes to the Department it must fit in every respect. You can see how utterly ridiculous such a charge was, if you could only see such a piece of scrip. This is all done because Mr. Hardenbergh was once Surveyor General, and is not now. I was one of the parties that entered complaints against him, and the Commissioner, after sending a party out here to take all the testimony, decided that each and every charge made against him—except two—that they were fully sustained. This Mr. Pickett, who comes out in a pamphlet—he sold two clerkships, and he got hold of it and then refused to pay. It is his refusal to pay Mr.

Pickett that angers him. The draughtsman was to pay Pickett fifty dollars a month, and when he refused, he sent the letter to the Department. All that was before I had anything to do with it. He gave his start out of that, and Mr. Hardenbergh brings him up to make a speech before the Assembly. There is a blank here, which he evidently means me, for he says that the Swamp Land Commissioner will report — Of course he feels bitter.

Mr. Klotz—Have you any of that scrip now?

A.—No, sir; I have not a piece. It became more valuable in Minnesota than it was here. They used it on pine lands which were unoffered.

Mr. Higbie—What do you know as to the school lieu land warrants—whether, in your opinion, has more land been located than the State is entitled to or not; and what do you know of their condition, if you know of it?

A.—That there has been more applications for lieu lands than there is lieu lands.

Q.—Do you know of any invalidities or important irregularities in the location of the State lieu warrants, or anything of that sort?

A.—No, sir; I don't know of anything but what would necessarily grow out of the system upon which it was organized. First there were locating agents, and then the United States Surveyor General, and the applicant was required to find the lieu. For instance, the people of the northeast quarter of section one, in lieu of section thirty-six. Now, that was always wrong. It ought to have been the business of the Surveyor General to put that lieu in himself, and keep the run of all the lieus the State was entitled to, and to fill those applications up himself. But you can see, if you speak for a piece of land in lieu of a section covered by a Spanish grant, Mr. Chandler may apply for the same land in lieu of other land, and there may be three, four, or five applications. The result is that it can only be applied for by one, and here are the other three, four, or five that are left out. Mr. Shanklin went on to Washington representing a great deal of lieu, and it is said that when he found that it was applied for by prior parties, that he would go to another man's application and get the lieu out, and that made a great deal of confusion; and there has been a great deal of confusion growing out of these various practices. If it was done by one man, he could keep a register of all the land the State had lost and was entitled to lieu for in its stead, and there would have been no confusion; but I don't know of any—

Q.—Can you tell us why—for instance, I want to locate some lieu land warrants, and I go to Mr. Meyers, or any gentleman, and say, "I want you to locate a piece of land for me," so and so, and he says, "Well, I will do that, but you will have to pay me four dollars and a half an acre"—why is that?

A.—I have always contended—I don't believe that I have a right to sell anything I don't own. There is the property of the State, and the State was entitled to a section in a certain township, but it was lost by reason of being covered by a Spanish grant; I happen to know of that; Mr. Chandler don't know; he comes to me and says, "I want scrip, or lieu to put on it; I want this land." I tell him I have lieu, and charge him several dollars an acre for the lieu. I have not the right to sell it to him, or to any other man; there has never been any right.

Mr. Higbie—It is simply taking advantage of his ignorance?

A.—Yes, sir; and I believe it to be the duty of the officers of the

State to furnish Mr. Chandler with that lieu, as long as the State is entitled to select any, and it ought to be an offense to charge Mr. Chandler any more than the State receives for that land. I have never done it; I have never sold a piece of it; I have always contended that they had no right to do it.

Mr. Klotz—The Land Office cannot tell anything until they get the maps, and that is where the trouble is?

A.—Yes, sir; and they can't get the maps without they pay for them.

Mr. Meyers—Cannot a law be enacted so as to simplify that matter, so as to regulate the matter, and require the Surveyor General to keep all this information in his office?

A.—Yes, sir; all such information should be kept in the Land Office, and there should be a law passed prohibiting any officer or any person from selling any information to any party, in regard to those things.

Mr. Higbie—Even in the Surveyor General's office, or United States Surveyor General's office, any person could secure the facts?

A.—Yes, sir; it should be that people could go there and get it; it is a very simple thing to do.

Mr. Meyers—Could we, by a State law, compel the United States Surveyor General to furnish this information?

A.—You could not compel the United States Surveyor General to do anything; but you could compel the State Surveyor General to keep an abstract.

Mr. Klotz—And not let an outsider have it?

A.—No, sir; you can't. Now, for instance, I have a pile of letters I might show you, from different parties, in different parts of the State, asking me what they can get lieu scrip for. Now, there was never anything of the kind. All I can do is to write and get the information—simply to write to the Surveyor General and ask him to substitute the lieu. Will he do it, is the question.

Q.—Could there not be a law passed that nobody could obtain any until the maps were filed?

A.—My impression is that all the lieu land is applied for, and a great deal two or three times over; that it is too late to do anything about it, and you will find the thing in inextricable confusion.

Q.—In regard to your statement about paying for maps, the way I understand it. Very often surveys are made by the Government, the way it has been done up in our county. When there was a great many settlers in this township, mind you, the Register and Receiver didn't take so much interest in it; but if you or I had any land, and took an interest in it, and sent him thirty, forty, or one hundred dollars, he would hurry it up, because he would have to pay that to get the maps in time?

A.—To show you the rule has been universal: when I came to Carson City, in eighteen hundred and sixty-three, the land officers were then employed, that were in this district, with their organization. They had their books, their field notes, and everything, their office rented, and no map in the office. I asked the officers why they didn't have the maps; they had been there six months without them, and they replied: "Because they could not get them; they had written and written, stating that the affairs of the office were such that they were behind with that, and they could not furnish them. They were behind in their organization for about six months then." I came over to San Francisco and paid one hundred and twenty dollars for thirteen maps. There were

thirteen townships surveyed, and the people were very anxious to have them surveyed, and they were holding their claims against squatters, and I came over here and succeeded in getting thirteen maps, for which I paid one hundred and twenty dollars. I never succeeded in getting a map out of the Surveyor General's office without I paid for it, and no Surveyor General has a right to take a cent for anything of the kind. It is a part of their duty to make a map of the survey as soon as it is returned to their office, and keep the original in their office, and send a duplicate to Washington, and another duplicate to the local Land Office. There are surveys made there as far back as eighteen hundred and fifty-five, in which the maps were made, the duplicate sent to Washington, and the original lies in the office here, and the local office never was furnished with any; at least, it was so a year ago. Since then I have not had occasion to look up the matter. I have paid for making maps, for local maps in the San Bernardino District, where the survey was made in eighteen hundred and fifty-five, and the clerical force was such that they could not make them. The whole thing needs reform; but if you commence reform on this thing, you will have enough to do. The management of the State lands, to say the least, was not the best it might have been. Take, for instance, the school lands. Here were two sections in that school law, and six years ago I came to this Legislature and told them that by managing it properly, they could make a School Fund in California unequaled by that of any State in the Union. How? By withdrawing their lands from the market, and making it the duty of the County Commissioners, or the Board of Supervisors, to visit each section, and fixing an appraised value, to the best of their judgment. Then put, say one fifth portion of these lands in each county or district up to be sold at public auction to the highest bidder, but not at a less price than was fixed by these parties. I will show you lands in the Sacramento Valley worth seventy-five dollars an acre, that were sold for one and a quarter and one and a half an acre. Judge Pratt has a section up here on his ranch worth seventy-five dollars an acre, and it was worth forty dollars an acre when he bought it for one and a quarter. Now if there is any school land in the State not worth one dollar and a quarter, you may be sure nobody will buy it. These lands should not be put in indiscriminately. If it was private land, you would try to get some idea of its value.

Mr. Higbie—Mr. Chapman, what is your opinion in regard to the applications of school lands to the swamp lands, as well as the mineral lands, in California; whether the sixteenth or thirty-sixth sections should not apply to mines and swamp lands, as well as elsewhere?

A.—I have not a question as to the mines, particularly; but the swamp land grant to the State was of a prior date. The swamp lands were given to the State before the school lands were. It is prior to the school land grant, but I believe the State ought to have the right to sell lands in lieu of those falling on swamp lands; and I contend that some day the Department will so decide. Now, at the same time, six years ago, when I came up here, I suggested this to some of the members. I was not acquainted with many of them, and am not now. I recommended that the State should have a locating agent; instead of selecting lands at one dollar and twenty-five cents an acre, they should select lands for the State, in compact form, and let them lay until they had some value. Suppose you had selected twenty thousand acres in the San Joaquin or Sacramento Valley in lieu of these sections, and had it listed to the State; it would have been worth thirty or forty thousand dollars, and

now, might be worth fifty dollars an acre. The State University scrip was subject to sale at one dollar and twenty-five cents an acre, and applicable only to lands subject to entry at one dollar and twenty five cents an acre. While that was the case, I made application to this Board of Regents for sixteen thousand acres of University lands, and located the scrip on the west side of the San Joaquin River, where the Western Pacific Railroad now crosses. I had application made here. The University Board was organized. I was acquainted with Mr. Stebbins, and a number of members of the Board, and I told them that that scrip was worth just as much as greenbacks, and no more, because it could only be located on offered lands. Greenbacks were then worth eighty cents on a dollar, so it brought the value of the scrip at less than one dollar an acre. I told the members of the Board, if you will not sell that scrip, but take it yourselves, and go and select the best lands in the State and locate it, you can make a good deal of money out of it; but if you want to sell the scrip, get a bill through Congress, making that scrip applicable to unoffered lands, so that you could locate it on some lieu that you could not buy with greenbacks, it would be worth more. They recommended and Congress passed such a resolution. I was in Washington at the time, and explained the whole thing to Mr. Casserly, and he did get the bill passed. Then it had a value of five dollars an acre at once; and Mr. Dwinelle, then a member of the Board, asked me to relinquish my sixteen thousand acres. I did relinquish it. You will find my application in the Surveyor General's office here, and I abandoned my application, and the land is worth twenty dollars an acre. I told Mr. Dwinelle that I would abandon it and every right to the lands. He has my record to prove what I say; and I never got a cent on it. The University made the difference between a dollar in coin and five dollars.

Mr. Klotz—That is sixty-four thousand dollars, then?

A.—Yes, sir.

Mr. Higbie—How do you understand the law in the matter of this, what they call University scrip, where it is located on unsurveyed land; and when the plat goes into the Surveyor General's office. Have they fifty days priority over any other applicant?

A.—Yes, sir.

Q.—You understand that, for instance, any one is living on a piece of land, and a person wishes to apply the scrip to that piece of land on which any one is living, can he apply that scrip during these thirty days in which he has the priority?

A.—No, sir; but the settler has ninety days in which to file his declaratory statement—back to the date of his settlement on the land—and the Department will always approve his location. Besides that, the Board of Regents passed a resolution that no lands could be located or settled upon without consent, and, if they didn't do that, the Government would always approve the settler's claim.

Mr. Klotz—But it must be done in ninety days?

A.—Yes, sir; and date it back prior to their claim.

Q.—In ninety days after the land is surveyed?

A.—In ninety days after the filing of the map.

Q.—Where is that map filed—in the Land Office, or in the county?

A.—In the United States Land Office, where the land is. Now, when Casserly got that bill through, making this applicable to unsurveyed lands and to unoffered lands, that bill also made it the duty of the Surveyor General, whenever there was an appropriation in his hands to

survey it. For instance, the University goes out and selects a piece of land, upon which their agent levies. It is the duty of the Surveyor General to survey that township at once. Since Mr. Hardenbergh has been Surveyor General, I think there has been thirty-four applications, and never, in a single instance, has he made a survey.

Mr. Higbie—Has he made other surveys?

A.—Yes, sir; there was seventy thousand the first; the second; the third; and ninety thousand the fourth year; and he never did do it. I told the Land Committee of the Board of Regents that there was the law, and they ought to appeal to the Department, and they would order it. But they didn't seem to understand it. I think there were thirty-four at the time I investigated it, and not a survey made during his administration, unless it was late last year. The reason of that was, the appropriations had been sold to the Dyer family. They were to make the public surveys, and receive the profits. I assert what I could not prove; but I can go this far, that E. H. Dyer had entire charge of all surveys, and nobody was employed by Mr. Hardenbergh, unless recommended by Mr. Dyer. Dyer had no contract during the entire time, yet the drafts were all indorsed—the surveys are paid for in drafts, on the Treasury, and those drafts I found—the Treasury drafts that had been turned over to these deputies—Dyer's men, indorsed by E. H. Dyer on the back—and of course he drew the money when he indorsed the check, and that was one of the charges; yet there was no proof that he had any benefit from them; although he received the money, they could not tell whether he was the principal, or was interested, or simply acted as an agent. That was one of the charges that was not proved. This State had the finest field and opportunity to make a School Fund, that would have been a monument to the State, if handled properly. The interest on money received would have run the whole school system of this State.

Mr. Meyers—Do you think the land is so much surveyed—

A.—No, sir; there is a great deal of unsurveyed timber lands in the mountains now. There are still some lands where school sections are unsurveyed. The University has made five dollars an acre, and on the school sections could do the same. The school lands certainly ought to be taken out of the market at a dollar and a quarter, to say the least of it. That much you could do, and you could not do any wrong by doing that.

Mr. Higbie—What advice would you give the committee, or what plan devise, or what law suggest, by which that might be accomplished and made available, to be beyond contingency?

A.—I would simply pass this law—withdraw all school lands from market at any price, and within the next two years, the public surveys would be extended, and there would be a good many selections loom up, and their value would be appreciated and understood, and by the subsequent Legislature, let that thing be legislated on again. But I would pass a bill withdrawing all school lands from market, and let them lie.

Mr. Klotz—Could we not do this: in Shasta County there is a great deal of timber land unsurveyed—could we not do this: whenever a township is surveyed, that the maps, when returned to the Land Office of the county—as you say—have the Board of Supervisors, or some one, to go and see what kind of land it was, and appraise it?

A.—I will show the difficulty you'll meet at once. Here you are at once. You will have to establish a Board of Commissioners to appraise

the value of that land. You have not time—you can't do it. But you can pass a bill withdrawing them from market.

Mr. Meyers—Could you not do this: provide that they could not be sold for less than five dollars an acre?

A.—It would result in this—that when lands are worth more than that they would be sold, and all worth less, would not, for the reason that all the settled portions of the State are pretty well surveyed. There is no school section that has any particular value that is not taken up. Now, you don't loose anything by withdrawing the school lands from market, and when the public surveys are extended, as they will be then, within the next two years, or they will be surveyed and have a value, and the next Legislature ought to take the thing up and have it sold as an individual would sell land, but now it is too late in your session to do more. This is the simplest thing in the world to take it out of market. Then the Legislature must go over it. They might say what did they withdraw it from the market for, not having the same views that we have. This thing is being discussed now, and the mistakes would not occur again. But if it is taken out of market they wouldn't go in again on the same terms.

On motion of Mr. Klotz the committee adjourned.

SACRAMENTO, March 21st, 1874.

HON. JOHN F. SWIFT:

DEAR SIR: During your term of office as Register of the United States Land Office, at San Francisco, I located Sioux Half-breed scrip to some considerable extent. You inquired of me very definitely as to the character of lands upon which such locations were being made; whether they were occupied or settled upon. I then informed you that I had not and would not locate upon land claimed by any actual settler, or upon lands upon which any person had a valid or equitable claim. I then authorized you to cancel any location which I might, at any time, make upon any land claimed or occupied as above; to which you replied that you would certainly do so, even had I not so authorized you.

Such locations were always made in the interest of the claimant, and not adverse to the settler. Am I correct in making this statement; if so, please indorse the same and hand it to the Committee on Land Monopoly and Land Frauds, and oblige,

Very truly,

WM. S. CHAPMAN.

ASSEMBLY CHAMBER,
SACRAMENTO, March 21st, 1874. }

In reply to the foregoing, I would say that the occurrences referred to took place nearly ten years ago, and I cannot undertake to repeat the conversation between Mr. Chapman and myself; but I will say, that he constantly and invariably declared to me that he never had and never would locate Sioux scrip upon land, except in the interest of preëmptors,

or other claimant, equitably and justly entitled to the land. That he was often requested to use the scrip adversely to such persons, but that he always declined, and always should do so, and most emphatically repudiated any wish or intention to wrong any occupant of lands, or other person, with just title or claim. Further than this I know nothing, as I always refused to allow the scrip to be located, believing the law to be against its validity in the hands of an assignee; the Act of Congress prohibiting its assignment, as I thought. I never saw any evidence of any disposition on the part of Mr. Chapman, to do contrary to his statements made to me. I resigned the office and left this State a few months after the transaction referred to, and know but little of the matter, save the conversation spoken of as above.

Respectfully,

JOHN F. SWIFT.

TRANSCRIPT OF TESTIMONY

TAKEN BY THE

Bribery Investigating Committee.

PRESENTED TO THE ASSEMBLY, MARCH 4, 1874.

T. A. SPRINGER.....STATE PRINTER.

TRANSCRIPT OF TESTIMONY

TAKEN BY

THE BRIBERY INVESTIGATING COMMITTEE.

ASSEMBLY CHAMBER, TWENTIETH SESSION, }
SACRAMENTO, January 15th, 1874. }

WHEREAS, A portion of the public press have made serious charges against the honor and honesty of undesignated members of the Assembly in reference to the late Senatorial election; therefore, be it

Resolved, That a committee of five be appointed by the Speaker, who shall have power to send for persons and papers, and report the result of the statements made to this House at an early date.

Adopted.

(Signed:)

BRUMSEY,

Assistant Clerk.

In pursuance with the above resolution, the Speaker appointed as committee, Messrs. Summers, Chairman; Norton, Freeman, Coggins, and Simpers, to which Mr. Amerman was added by resolution of the House.

(Signed:)

BRUMSEY.

On February fourth, eighteen hundred and seventy-four, Mr. Summers offered the following resolution, which was referred to the Committee on Rules and Employes, and finally adopted:

Resolved, That the Senatorial Investigating Committee be and are hereby authorized to employ a shorthand reporter for such a length of time as they shall deem necessary, said reporter not to receive more than eight dollars per day, including all services rendered in taking and transcribing, etc.

Under the above resolution, H. A. Jones was appointed as reporter of the committee.

Acting under the authority of the first resolution, the Chairman appointed a meeting for Wednesday following.

Wednesday, at seven P. M., the committee met.

At seven o'clock and five minutes P. M. the committee met in the Sergeant-at-Arms room—Present, a full committee.

Mr. Amerman offered the following resolution:

Resolved, That the proceedings of this investigation be had with closed doors, no person being admitted during the sessions excepting the accuser, his counsel, and the witness on the stand; further, that the reporter and all the members of the committee be required to keep still all the proceedings of each session until the investigation is finally concluded.

Mr. Norton said he was opposed to the theory of the resolution.

Mr. Coggins stated that on Friday last some four or five members of the committee had met and decided to have the investigation open to the reporters and to the public.

Mr. Amerman—I will withdraw the resolution and modify it by offering this amendment: That all the witnesses that are subpoenaed in this case be required to keep on the outside until they are called.

Mr. Simpson—I would second that.

Mr. Norton—I would second that to prevent collusion.

Mr. Coggins said that one of the reporters present had been subpoenaed, and he hoped an exception would be made in his case and he be permitted to remain.

Mr. Amerman offered the following written resolution:

Resolved, That all witnesses subpoenaed in the matter of this investigation be excluded from the room during the examination of any witness on the stand.

Mr. Coggins—Until after they have given their testimony.

Mr. Amerman—Yes; until after their evidence has been given.

Mr. Summers—Well, gentlemen, does that resolution meet with a second?

Mr. Simpson—I second it.

The resolution was adopted, and the Sergeant-at-Arms directed all witnesses present, excepting reporters, to withdraw. The names of witnesses were read.

TESTIMONY OF VINCENT RYAN.

VINCENT RYAN called, sworn, and examined:

Mr. Amerman—Mr. Chairman, I understand that the party who makes the accusation, in this case is accompanied here to-night by his counsel. I would, therefore, move that the counsel of the accuser be requested to conduct this examination on the part of the prosecution.

Mr. Norton seconded the motion.

Mr. Coggins—I have no objections, Mr. President, but I think it would be only fair that the counsel of the accused, as soon as we catch him, should have the same privilege.

Mr. Amerman—I amend that motion by also including as a portion of it that Mr. Norton, on behalf of the committee, be requested to act as

counsel on behalf of the committee, which, of course, would be on the part of the defense.

Mr. Coggins—I suppose, of course, it is understood that each member of the committee will exercise the privilege of asking any question that he desires.

Mr. Norton—And if the accused, during the progress of the investigation of the charges, should center on some one man, I suppose that he would be entitled to appear by counsel here, the same as the prosecution.

The motion of Mr. Amerman was carried.

N. Greene Curtis appeared as the counsel for M. D. Boruck, and stated that he did not appear to prosecute the case, and was not disposed to take advantage of any one, but merely desired to protect the rights of his client.

Mr. Amerman read the following article from the *Chronicle*, of the 16th of January, 1874:

Mr. Amerman—Now, I would suggest, Mr. Chairman, as preliminary to entering upon this investigation, that as the charges have been made by Mr. Boruck through his paper, and it is understood that he occupies that position here—as a sort of a prosecuting witness—the position a prosecuting witness does in a criminal prosecution; and Mr. Boruck would be a proper person to be first examined. I merely make that suggestion so we can understand what the charges are, and then proceed with the investigation.

Mr. Norton—I would like to hear, Mr. Chairman, read before the committee, the charges made by him, Boruck. They have passed out of my mind, if I ever noticed them. I suppose they are in the paper published by him, *The Spirit of the Times*. Have you a copy of that paper here, Mr. Boruck?

Mr. Boruck—I have not a copy of the paper with me, but I can tell it, Mr. Norton, almost word for word. It was this: that I knew of an Assemblyman who had been offered two thousand dollars for his vote; that the offer was made in gold notes; and that the Assemblyman had spurned it and refused it; and that I could prove it. That is the sum and substance of that article.

Mr. Norton—I suppose the only object in examining Mr. Ryan first, Mr. Amerman and Mr. Chairman, was to allow him to be here, being a reporter; and I suppose parties here would not seek to exclude him if he or Mr. Boruck was examined first. I think it would be proper to examine Mr. Boruck first.

Mr. Freeman—Mr. Chairman, I move that Mr. Boruck be brought on the stand, and examined as to what he knows of the gentleman who was offered two thousand dollars.

The motion was seconded and adopted.

TESTIMONY OF MARCUS D. BORUCK.

MARCUS D. BORUCK, called, sworn, and examined:

On the nineteenth of December, at three o'clock in the afternoon, in this city, I was on my way to Wells, Fargo & Co.'s office, prior to leaving for San Francisco. I also had a telegraphic dispatch to send below

informing my family that I was on my way down. Coming out of the Orleans Hotel, I met the Hon. J. C. Carter, of Yuba, member of the Assembly, who called me to him (the gentlemen of the press will tell me if I go too fast for them; I want to study their convenience in giving the testimony), and he stated that he had something important to impart to me. I asked him what it was. He said the friends of Booth were endeavoring to purchase votes. I asked him how he knew it. He hesitated somewhat in speaking. I told him he had gone so far, he might as well tell the remainder. He said he had been offered two thousand dollars, I think he said in gold notes, to leave Shafter and go for Booth. I hurried him somewhat in his conversation, as the hour for my leaving was approaching. I asked him what he did under the circumstances. He said that he had indignantly refused to entertain the proposition, but finally, for the purpose of consultation with his friends, he had agreed to meet the parties again at six o'clock that evening. I left him then to consult with his friends, and I proceeded to the city, and learned subsequently that there was no further consultation between them. That is all, sir, unless the gentlemen desire to ask me some questions.

Mr. Norton—How long was this before the Senatorial contest was terminated?

Answer—This was on the nineteenth of December. I think the Senatorial contest was closed the next day, Mr. Norton; if I am not mistaken it was, was it not?

Question—On the twentieth? I think it was.

A.—Yes, sir; the day before, it was.

Q.—Where did you say you saw him, Mr. Boruck?

A.—Coming out of the Orleans, I met him; directly in front of the Orleans.

Q.—Was he coming out of the Orleans?

A.—No, sir; he was coming from J street; was coming in that direction.

Q.—Had you had any previous conversations with him about this subject?

A.—No, sir; not a word.

Q.—Had you met him during the Senatorial fight to consult with him?

A.—No, sir; not at all.

Q.—Did he tell you who had offered him two thousand dollars in gold notes to change his vote from Shafter to Booth?

A.—He did, sir.

Q.—Who was it?

A.—I made him a pledge that I would permit him, if necessary, to divulge the name if it ever came to that point, and I would like, if the committee will permit me, to keep my word until he himself is sworn, and if he refuses to give the name I will give the name myself.

Mr. Curtis—I ask the counsel to withdraw the question.

Mr. Norton—How long did this conversation last, Mr. Boruck?

A.—Well, a very few minutes. I was hurrying all the time, as it was nearly the time and I had to go back into the Orleans and get my satchel, and see that it was taken down to the cars.

Q.—What you say you heard subsequently, you learned from hearsay—from what parties told you since your return from San Francisco?

A.—Yes, sir; but I learned from Mr. Carter, himself, that nothing further had took place between them. He didn't see them again.

Q.—Did he tell you when the offer was made?

A.—No, sir, I don't think he did. I wouldn't be positive as to that point. I think not, however.

Q.—Will you give again his language, as near as you can—I have forgotten—that is, what Mr. Carter said to you upon approaching you, as to the efforts—that the friends of Booth—

A.—Were endeavoring to purchase votes.

Q.—Was that the language, or substance of it?

A.—That was about the language.

Q.—First prefacing the remark with saying to you that he had something to divulge to you?

A.—Yes, sir.

Q.—Did he seem excited?

A.—Yes, sir, he seemed excited, very much worried, and very indignant.

Q.—Expressed himself as being very indignant at having been selected?

A.—Yes, sir; and that calls to my recollection a remark he made. He said he had plenty without selling himself in that way.

Q.—You were there with him but a short time?

A.—Oh, yes, sir; of course it was hurried—just between three o'clock and the time I had to go to Wells, Fargo & Co.'s, which I did, and sent a message.

Q.—You say that he didn't tell you where the offer had been made?

A.—No, sir; I think not.

Q.—Who else was present, if anybody?

A.—No one, sir.

Q.—Was it within the hearing of any one?

A.—No, sir; no one except the post, sir, that we leaned against.

Q.—Did he allude to Governor Booth as being connected with the affair at all?

A.—Simply made that remark—that the friends of Booth were endeavoring to purchase votes.

Q.—Had you learned anything subsequently to that time bearing upon this question, Mr. Boruck, except wherein you have stated.

A.—No, sir—as to this particular point?

Q.—As to this particular point?

A.—No, sir; I have not.

Q.—Have you learned anything, subsequent to that time, that would throw any light upon this question?

A.—No, sir; I have not pursued it any further—to make any further investigation into it at all.

Q.—We simply desire to get before the committee, Mr. Boruck, all the facts; and I know you cheerfully would give them. That is, the sole object of the investigation is to get at the truth?

A.—Yes, sir.

Mr. Coggins—Did he say, Mr. Boruck, where this interview had taken place?

A.—No, sir.

Q.—Did he say where the interview in the evening was to take place?

A.—No, sir; he did not.

Mr. Freeman—Mr. Chairman, I move that Mr. Edgerton be now put on the stand, to state what he knows in this case.

TESTIMONY OF HENRY EDGERTON.

HENRY EDGERTON called, sworn, and examined:

Mr. Summers—Mr. Edgerton, this is an investigation of charges of bribery made against the honor and honesty of certain undesignated members of the House of Assembly, in the late Senatorial contest.

Answer—I didn't understand you, Mr. Chairman.

Question—This is a charge of bribery against undesignated members of the Assembly, in regard to the late Senatorial election. Will you please state to the committee what you know in regard to the matter.

A.—I know nothing about it, sir, except what I have seen in the newspapers. On my return from San Francisco, some weeks since, I think within a few days after the election of Judge Hagar—after the whole thing was over—I was coming up on the Vallejo boat, and Senator Spencer placed in my hands an issue of the *Examiner* containing an extract from the *Spirit of the Times*, a paper edited by Mr. Boruck. I read that article, and I have seen various allusions to that article since in the various newspapers. That is all I know about it, unless some person may have called my attention to it and talked about it since. I presume that has occurred, but I don't now recollect definitely of any individual who called my attention to it. I believe, sir, that is all I know about it.

Mr. Curtis—Did you read the *Spirit of the Times* of the twentieth?

A.—I don't recollect the date, Judge Curtis.

Q.—You read the extracts as published in the *Examiner*?

A.—The *Examiner* was placed in my hands by Senator Spencer on the Vallejo boat. I am confident it was the *Examiner*, and that it contained an extract purporting to have been taken from the *Spirit of the Times*.

Q.—Do you recollect whether it was an extract or the article entire, taken from the *Spirit of the Times*?

A.—That I don't recollect. My impression is, perhaps it was the whole article.

Q.—Have you read that, Mr. Edgerton? Did it refresh your mind in regard to any similar charges you had heard made by Mr. Boruck?

A.—That is all I have heard in regard to the matter.

Q.—Then you have heard no persons speak of charges of bribery and corruption made in regard to the Senatorial election?

A.—Since that time?

Q.—Yes, sir.

A.—No, sir. I say I may have talked with persons about it, but I don't recollect of any particular person.

Q.—Have you ever come into the possession of any facts in regard to that matter from persons who professed to know?

A.—I don't know that I ever have.

Q.—You know nothing of any facts?

A.—No facts at all. I never heard any person impute anything of the kind to any person that I remember of. He said that a member, or some member, of the Assembly had been approached. I think Mr. Boruck made that declaration in his issue on the twentieth, and that he stood prepared to prove it; that some man had made a declaration of that sort.

Q.—Did you ever hear a man make a declaration of that sort?

A.—No, sir.

Q.—Are you acquainted with Mr. Carter?

A.—I don't recall him by name. I know several of the members; but I don't know him by name.

Q.—He represents, I think, the County of Yuba?

A.—I don't know him by name.

Q.—Have you heard any person say, Mr. Edgerton, that they were in the possession of any facts in reference to any charges of bribery?

A.—I never did.

Q.—You know nothing about it.

A.—I know nothing about it at all.

TESTIMONY OF VINCENT RYAN—(RECALLED.)

VINCENT RYAN, recalled:

Mr. Summers—Mr. Ryan, will you please state to the committee what you know in regard to this charge that has been made by Mr. Boruck?

Answer—All I know about it, Mr. Summers, is stated in substance in the paper which you have just read. I, of myself, know nothing at all about it. Hearing Mr. Boruck had made such a charge, I read his paper and went to him and asked him for the name of the party he referred to, which he did not do. I thought it was my duty, as a live correspondent, to find it out, and I tried to do it and didn't do it; and I heard a rumor that Mr. Ferguson, of Fresno, was the gentleman referred to, and I went to Mr. Ferguson and asked him, and he said nobody had ever offered him anything. And I next went to Mr. Dixon, of Sonoma, and he said nobody had offered him any money; and I then went to Mr. Northup, of Nevada. I was not acquainted with him, but he was pointed out to me, though, when he was in the barroom of the Golden Eagle hotel. I went up to him and I told him what I had heard, and that I was inquiring into the matter; and I told him who I was, that I was the correspondent of the *Chronicle*, and that I didn't wish to obtain any information without telling him who I was; and told him that it had been said that he said that money had been offered to him by the friends of Booth. He said that he didn't say so. We talked about the matter and about Mr. Boruck's charges, and at length he finally said this: "That I can tell you this: I was offered money for my vote; I was offered money to change my vote from Farley to Booth." I asked him if any friends of Booth had offered him the money—any Booth man, I think was the term I used. He said no. Well, I asked him who did offer it to him. He said he would not tell me, and nobody could make him tell; but it was offered to him by a Democrat, I understood. I could not recall his exact words, but the impression left on my mind was that the money was offered him by a Democrat who desired to defeat the Democratic caucus, and I put the sum at two thousand dollars. I did that much of the article on the authority of Dixon, of Sonoma, with whom I had afterwards spoken. He said that Mr. Northup had spoken to him and fixed the sum at three thousand dollars. He didn't fix the sum in the conversation with me. That is all I know about it.

Mr. Curtis—Mr. Northup stated, then, that he had been offered money to change his vote from Farley to Booth?

A.—Yes, sir.

Q.—Do you remember, Mr. Ryan, what that was?

A.—No, sir.

Q.—Or, did he give you the time the offer was made?

A.—No, sir; he didn't, I think.

Q.—And he refused to tell you the name of the disinterested Democrat who ran away from the Democratic party, who he was?

A.—Yes, sir.

Q.—Then you don't know whether he was a friend of Governor Booth's or not?

A.—Except what he said himself, that he was a Democrat.

Q.—What did he say his object was—to defeat the Democratic party?

A.—That was the impression left on me, that it was by a Democrat who desired to defeat the caucus of the Democrats.

Q.—Of course, you don't know his name?

A.—No, sir.

Q.—Did you search after information further; did you ask any one else in regard to this matter of the charge of Mr. Boruck? You have stated several parties.

A.—I talked with several newspaper correspondents; I didn't make any direct inquiries of anybody, though, for I had no expectation of getting any information; I went to Mr. Ferguson, and he sent me to Mr. Dixon, and he sent me to Mr. Northup; that was the way I came to go to Mr. Northup.

Q.—Mr. Ferguson said he knew nothing about it?

A.—He said he was satisfied that he was not the man referred to by Mr. Boruck, and that nobody had ever offered him any money.

Mr. Norton—How long was this after the twentieth that you went to see Mr. Northup at the Golden Eagle Hotel?

A.—I don't know. I could tell you the date by looking at the paper, when I printed this matter.

Q.—It appears that Mr. Boruck's article appeared on the twentieth; how long had his article been in print?

A.—It was two weeks afterwards.

Q.—No one had said anything to you about it? You went to get information, I suppose, to publish in the paper?

A.—That is all.

Q.—You and Mr. Boruck are on friendly terms; your relations are friendly?

A.—Yes, sir.

Q.—You had a conversation with him about it after you read the article in the paper of Mr. Boruck?

A.—Yes, sir.

Q.—Were his statements to you about the matter the same in substance as he published them in the paper?

A.—He made no statements to me about it. I merely asked him to give me the name of this gentleman, and he said he would not give it to anybody unless an investigation was had, and then he was prepared to give it, and prove all he said.

Q.—So that if Mr. Northup had been offered a sum—how much he didn't tell you, but Mr. Dixon, of Sonoma, did—of three thousand dollars—if he had been offered that, it must have been some three or four weeks before that?

A.—It must have been.

Mr. Coggins—The date of this paper, Mr. Norton, is January sixteenth.

Mr. Ryan—I could not fix the date.

Mr. Norton—I am now calling your attention back to the time the Senatorial struggle closed, so the offer must have been made before it was closed, and Mr. Northup had held the secret in his breast for three or four weeks. That was true, so far as you knew?

A.—Yes, sir.

Q.—You had to go to him and press him to the wall before he would divulge even that, didn't you, by your conversation?

A.—Well, I wouldn't like to say that exactly. I was questioning him on the point whether any Booth man had made the offer. He understood that I had been a Booth man, and I gave him to understand that I didn't believe the story, and I questioned him as to whether any Booth man had offered him money. He said no, but about the time I was going to leave he said: "I will tell you this, that I was offered money to change my vote."

Q.—But he didn't answer your interrogatory as to whether any Booth man had offered him money?

A.—Yes, sir; he said no.

Q.—Hesitated some time before he told you what actually did occur?

A.—Well, he thought several minutes. I don't know that he hesitated. He told me the story of his own accord.

Q.—Did he appear indignant about it?

A.—Yes, sir; he professed himself very much surprised—very indignant on account of this offer, because he said the man was an old and particular friend of his, and he was very much astonished and grieved, not only that he should offer him money, but that he should go back on the Democratic party that way.

Q.—Did he explain to you in this conversation why he didn't make this public, as Mr. Boruck had the information he had received?

A.—No, sir; I did not ask him that question. I don't think we referred to that.

Q.—He gave no excuse for retaining it, and, in so far as you know, had imparted it to no one but Mr. Dixon?

A.—I think Mr. Ferguson knew of the same story.

Q.—Did Mr. Ferguson tell you that he did?

A.—No, sir; not directly, but I think he gave me some hint that sent me to Dixon.

Q.—That is the inference you draw from what Mr. Ferguson told you?

A.—Your suggestion reminds me of something I omitted; that I went to Mr. Ferguson, and then to Mr. Dixon, and then Mr. Ferguson came to me and asked me what I had learned from Mr. Dixon; and I am reminded now that Mr. Dixon didn't send me to Mr. Northup first. He asked me what Mr. Dixon told me. I told him that he said nobody had ever offered him any money, unless that it was in the way of a joke; that he had no idea of making any charge of bribery, as he knew nothing about it; and then Mr. Ferguson said: "He didn't tell you all he knew. What did he tell you about Northup?" I said he didn't tell me anything about Northup, and then, on Mr. Ferguson's information, I went back to Mr. Dixon.

Q.—Then you went back to Mr. Dixon or Northup?

A.—Back to Mr. Dixon.

Q.—Did he then tell you what he knew about it? Did Mr. Dixon, at the second interview?

A.—At the second interview; there was only one point now that I am uncertain about—whether I went directly to Northup or Dixon; but at the second interview he did tell me.

Q.—And what he told you was what Mr. Northup had told him?

A.—Yes, sir.

Q.—No one had offered *him* any?

A.—No, sir; no.

Q.—Who did Mr. Northup tell you had offered him this three thousand dollars?

A.—He refused to tell me.

Q.—But said it was an old friend and Democrat, a man he respected highly.

A.—Yes, sir; a man he thought a great deal of.

Q.—And he felt grieved that he had selected him?

A.—Yes, sir.

Q.—And thrown off on the Democratic party?

A.—Yes, sir.

Q.—Mr. Northup is a Democrat?

A.—I believe he is.

Q.—Well, did you have any conversation with Mr. Northup since this resolution was offered by Mr. Summers to investigate this matter?

A.—Not a word; I am not acquainted with Mr. Northup; I have never had any other conversation with him at all.

Q.—That was the only conversation you have had with him?

A.—Yes, sir.

Q.—Have you now detailed, Mr. Ryan, and named all the conversations you have had, and named all the persons from whom you have gained any information about the subject matter in controversy here?

A.—I think so; I have talked probably fifty times about this to various people, but I do not think I ever obtained any information about it.

Q.—Excepting what you have stated?

A.—Excepting what I have stated; all I recollect I have told you.

Mr. Amerman—Mr. Ryan, I understand that this conversation was with Mr. Northcutt or Northup?

A.—This is Mr. Northup.

Q.—It is not Mr. Norton?

A.—Oh, no, sir.

Mr. Norton—It is the member from Nevada.

Mr. Ryan—I have heard since then, I should say, that I had heard it almost as a matter of common repute; I have heard it from half a dozen.

Q.—It seemed from that time on to have been made public?

A.—I have heard half a dozen people speak of it; I have not taken notice much; I have mentioned it myself; I have not attempted to keep it secret.

On motion of Mr. Norton, Mr. Carter was next called.

TESTIMONY OF J. C. CARTER.

J. C. CARTER, called, sworn, and examined:

Mr. Summers—Mr. Carter, you will please state to the committee what you know in regard to the charges made by Mr. Boruck in regard to alleged frauds in the late Senatorial contest, touching the honor or honesty of undesignated members of the Assembly; if anything, and what they are?

Answer—Well, on the Friday before the Senatorial election, Mr. Brown came to me in the Assembly Chamber, a few moments before eleven o'clock. He asked me if I would not come up to his room a few moments, before the roll was called; he wanted to see me on a matter of business.

Mr. Norton—Proceed.

A.—I told him that I would. He told me that his room was number seventy-two, I think, up stairs. He stepped off a few steps, and came back and asked me to be sure not to forget the number of his room. Well, as soon as I answered to my name, I went up to his room. He was sitting at the table, and another gentleman with him, engaged in writing, and he asked this gentleman to leave the room, as he had some private business with me; there was a boy, also. They got up and went.

Mr. Coggins—In what building did you say?

A.—In room seventy-two, up stairs.

Mr. Freeman—In this building?

A.—Yes, sir.

Mr. Norton—In the Capitol?

A.—Yes, sir.

Q.—I understood you it was Mr. Brown?

Mr. Amerman—Mr. Carter, excuse me a moment. Is this the Mr. Brown, who is Enrolling Clerk or Engrossing Clerk?

A.—Yes, sir; that is the man, sir. After they left he took a couple of chairs and moved them to the back part of the room, and sat down; and he asked me if nothing could induce me to vote for Mr. Booth; and I told him no. He then asked me if there was nothing—if there was no consideration that could be used, that would make me vote for Mr. Booth. I told him no; that I was a Republican, sent here by Republicans, and that I did not consider Mr. Booth in the Republican party; and that I could not go for him. He then said that if I would go for Mr. Booth—he said that he was deeply interested in the election of Mr. Booth, and that most of the members of our delegation were going for him, and that it would suit my people up there very well, and that I should go with them. He was deeply interested in the election of Mr. Booth, and that if I would go for him he would give me two thousand dollars in gold notes. He said that he wanted nothing from me, but my promise that I would go for him. He didn't want me to give no writing, and that he would place this two thousand dollars in gold notes in my hand, and that I should not be asked to vote for Mr. Booth that day. I told him that there was no use in talking to me, that I could not do it, and I got up to leave. He said that he would not take that for a final answer. He asked me where I stopped. I told him that I roomed at the International Hotel. He asked me what time I would be there. I told him that I would be there between five and six o'clock, perhaps. He said he would call and see me. I told him he might do so if he chose, but my answer would be the same.

Mr. Curtis—Did you tell him the number of your room?

A.—I don't know that I mentioned the number of my room. He asked me where I stopped, and I said the International Hotel. I then got up and left, and he followed me out to those stairs leading down here, and extended his hand, shaking hands, and he said, "Mr. Carter, this is on honor; there is nothing to be said about this;" and I said, "No, sir; I shall say nothing about it." Well, I didn't go to my hotel till nine o'clock, so whether he came there or not I don't know; and that is all I know about this Senatorial bribery.

Q.—Is that all of your narrative; is that all you have to state in narrative form?

A.—That is all I know of. I saw Mr. Spencer, and told him about it the same night; and also told Mr. Boruck about it.

Q.—On what day was this, Mr. Carter?

A.—That was on the Friday previous to the election of United States Senator for the long term.

Q.—The election for the long term was on Saturday, the next day?

A.—Yes, sir.

Q.—It was immediately after roll call that he desired to see you, and you went up?

A.—Yes, sir; he desired me to call to his room immediately after roll call.

Q.—You were acquainted with Mr. Boruck?

A.—Slightly, sir.

Q.—Did you see Mr. Boruck at that day?

A.—I saw him that afternoon; yes, sir; after the Assembly had adjourned.

Q.—After you had the interview with Mr. Brown, you saw Mr. Boruck? Where, Mr. Carter?

A.—At the Orleans Hotel, on the sidewalk.

Q.—Did you state what had occurred between you and Mr. Brown to Mr. Boruck?

A.—Yes, sir.

Q.—About as you have stated it here?

A.—Yes, sir.

Q.—Was there anything said between you and Mr. Boruck, at that time, by which you was led to believe that Mr. Boruck was anxious to know all this, or did you volunteer it?

A.—Volunteered it. Mr. Boruck and myself, I supposed, were engaged in trying to elect a Republican as United States Senator.

Q.—And you stated this circumstance to Mr. Boruck without his solicitation?

A.—Without his solicitation.

Q.—At that time, Mr. Carter, was there anything said about the party who had made that proposition? Did you place Mr. Boruck under any restrictions?

A.—Yes, sir.

Q.—What were they?

A.—That there was no public exposure to be made about this, for I remembered on some occasions where men were concealed in closets before, and I didn't want to be mixed up with it. I would be willing to defeat Mr. Booth, but I didn't want to be mixed up in no such dirty mess.

Q.—You didn't want a wardrobe scene?

A.—No, sir.

Q.—I will ask you if you requested Mr. Boruck not to give the name of the party who made the proposition to you?

A.—No, I don't remember that. I don't know that I asked any pledge from Mr. Boruck, further than this was not to be made public.

Q.—Did Mr. Boruck state to you, at that time, that he would not give the name of the party who had made the proposition to you? He states that he did so state to you. I want to ask you if you remember it; whether you asked him not to say anything about the name of the party who made the proposition to you?

A.—I don't remember. I don't remember asking Mr. Boruck for any other pledge, than this thing was not to be made public, as I didn't want to be mixed up.

Q.—If he made any such pledge to you, you release him from it, do you, now?

A.—Yes, sir.

Q.—He has declined to give the name, stating that he had made a pledge to you?

A.—I have given the name. It is against my wishes that anything of this kind is done.

Q.—Did you have any conversation after that with him, Mr. Carter—with Mr. Brown?

A.—No, sir. I saw him the next morning. I tried to see him the next morning. I wanted to see him: I looked for him here. I didn't see him that night, and I looked for him here and saw him at my desk in the Assembly chamber, and he was distributing some pamphlets, and I asked him if he had got his man last night. I told him I had not seen him. I asked him if he had came around; that I was not there. He made some unintelligible answer.

Q.—He didn't tell you if he succeeded in getting his man or not?

A.—No, sir. He said something; what it was I could not understand. Since that time I have not spoken to him about that matter, when I meet him occasionally.

Mr. Norton—When did you first form Mr. Brown's acquaintance?

A.—Just previous to the organization of the House here—of the Legislature. I was introduced to him by an acquaintance of mine from Marysville. He represented to me that he could bring some assistance to this acquaintance of mine; that one Senator had told him he could use his name.

Q.—This man Richard Brown, was he a competent (?) fellow?

A.—He was at that time, I thought. I have very little acquaintance with him.

Q.—Well, did he prove himself to be so?

A.—No, sir; I had very little to say to him. I don't know as I spoke a dozen words to him after he was elected as Clerk.

Q.—He came down just at the roll call, or just before?

A.—He was there, standing right between my desk and Mr. Amerman's.

Q.—Appeared cool, as a man that meant business; didn't appear excited?

A.—He was somewhat excited when I refused to take his money, up stairs.

Q.—He was cool when he asked you to go up to his room?

Q.—Yes, sir. I was somewhat surprised that he had any business with me.

Q.—What young man or boy was with him at the time you went into the office up stairs.

A.—There was a boy. I think he is the son of Mr. Eardley. Mr. Eardley was the man. The boy I have seen with him frequently; I don't know who he is.

Q.—Did the boy seem to be employed doing office work?

A.—When I went in, Mr. Brown was sitting right at the table, and I said, what assistant is this you have with you? And he jumped right up and asked the man to leave, and the man left; and the boy was remaining, and he told him to go, and he went out.

Q.—Did he leave the boy?

A.—He was going out leaving the boy; and he got the boy to leave.

Q.—Got them both to leave?

A.—Yes, sir.

Q.—Now give us his language, as near as you can.

A.—Well, sir, I have, as near as I can, word for word.

Q.—Said he was a friend?

A.—He was deeply interested in the election of Mr. Booth. He didn't say anything about friend, or anything else.

Q.—Did you know what his politics were; what party he belonged to?

A.—I understood he was a Democrat.

Q.—You understood that in the fight he made for Enrolling Clerk against Tod Robinson?

A.—Yes, sir.

Q.—Had you voted for Brown?

A.—I did vote for him, as I told him. He had promised to get assistance for this acquaintance of mine, and if he did that I said I would support him; but when I found he could not bring my friend any assistance, I went to him and told him that I considered myself absolved from my promise; I didn't say that I wouldn't vote for him, but I considered myself free; I did vote for him; I had no choice. He said he thought it was very hard, after his doing all he could for the election of Mr. Campbell. I told him I wouldn't consider myself bound to vote for him, but I had no choice between the two.

Q.—Did you see any money?

A.—Not a cent, sir.

Q.—He didn't talk business to you, then, by showing the gold notes?

A.—He did just as I have told you, and stated that he would place two thousand dollars in gold notes in my hand if I would just say I would vote for Mr. Booth, and I should not be asked to vote for him that day?

Q.—When did he say he would place them in your hand?

A.—I understood it was to be right there; he said he would place two thousand dollars in my hand.

Q.—But you didn't see any money at all?

A.—No, sir.

Q.—He didn't make any offer to get any money out of the Enrolling Clerk's room, or out of his pocket?

A.—No, sir.

Q.—Did you believe what he said to you?

A.—Yes, sir; religiously.

Q.—You did?

A.—I believe that if I had said I would go for Booth, I would have got the two thousand dollars right there.

Q.—You believed that?

A.—I believed it.

Q.—This was the day before the election?

A.—Yes, sir.

Q.—Did you come down from that room and go in there quietly to your seat and ballot for your man with the rest of us?

A.—Yes, sir.

Q.—And not divulge this to any human being on earth while that contest was going on.

A.—Yes, sir; that day.

Q.—Did you then go to any member of that House or Senate and divulge that fact of this offer of money to you to change your vote?

A.—At that time?

Q.—Did you go to any member until you had gone to Mr. Boruck?

A.—No.

Q.—Mr. Boruck then was the first one that received this intelligence from you?

A.—Yes, sir.

Q.—Why is it, if you religiously believed that he would do as he said he would do by you, and that he was acting in the interest of Governor Booth, why didn't you make it known?

A.—Because I didn't feel like it.

Q.—Why didn't you feel like it?

A.—Because I said I wouldn't do it.

Q.—Your simple promise to a man, under those circumstances, would outweigh your feelings of duty towards the party?

A.—It did.

Q.—It would?

A.—It did, as I tell you.

Q.—When did you promise to him not to divulge it?

A.—In his room at that time—at the head of the stairs.

Q.—Then if you considered that promise binding, why did you divulge it to Mr. Boruck?

A.—I don't know; simply because I considered Mr. Boruck a friend.

Q.—You would divulge it to a man on the outside, but not to a member who was taking stock in the fight?

A.—I did divulge it to Mr. Spencer, sir, the Senator.

Q.—Under the same promise of secrecy?

A.—Yes, sir; I told Mr. Spencer that I was satisfied it was Mr. Booth that was in this arrangement, and I wanted him to hold off to give me an opportunity to see this person again, and see what was going to be done, and if it could be fixed on him, but I had nothing to go on but my unsupported word.

Q.—You felt a little prejudice then against Governor Booth?

A.—Yes, sir; there has been such a howl against Republicans—their being corruptionists, etc.—and nothing else on the other side.

Q.—Is your testimony colored by prejudice?

A.—No, sir; not a bit, as I told you; this is very much against my wishes that anything of this kind has come up.

Q.—I have no doubt of that.

A.—It has been all the way through.

Q.—But how can you reconcile your conduct with that of a friend of the people?

A.—Well, I had nothing to go on except my unsupported word.

Q.—And yet you believed what this man told you?

A.—Yes, sir.

Q.—Did you believe he had the means at his command to give you the two thousand dollars there in that office?

A.—No, I could not think anything about that; he made the offer, and I had no idea of accepting it; and I told him at once I could not do it.

Q.—And yet you know he is an officer of this House, don't you?

A.—Yes, sir.

Q.—And you have allowed him to remain there in the Enrolling Clerk's office until more than half of this session has been consumed?

A.—He would have been there all the way through, as far as I am concerned.

Q.—You think this man is entitled to hold his position?

A.—No, sir; I have not said so.

Q.—How do you reconcile that with your notions of honor?

A.—Because I didn't want to be mixed up with this affair, and because I had nothing else but my unsupported word, and I dreaded it.

Q.—That outweighed everything else with you? Did he say that Governor Booth had authorized him to make this offer to you?

A.—I don't know that he did.

Q.—Did he say any friend—political friend—of Governor Booth had authorized him to do this thing?

A.—No, sir.

Q.—It seemed to be on his own motion?

A.—I have simply told you precisely what took place.

Q.—Yes, but I have a right to ask you again; I don't ask that again, but I ask this question: He made the promise or offer to you on his own motion?

A.—Yes, sir.

Q.—Not connecting himself with anybody?

A.—No, sir.

Q.—Didn't pretend to do it?

A.—He said, as I have told you, that he was deeply interested in the election of Governor Booth.

Q.—Did he say how?

A.—I didn't ask him.

Q.—Did you infer that he was deeply politically interested in the election of Governor Booth, he being a Democrat?

A.—He told me he was deeply interested in the election of Governor Booth, but how he was I don't know, neither did I care.

Q.—When did you tell Mr. Spencer about it?

A.—That same night.

Q.—Why did you not return to your room if you thought he was acting in good faith with you, and there meet him and get hold of the coin?

A.—I didn't care about seeing him.

Q.—You didn't care about seeing him; didn't you care to find out the facts of the matter?

A.—No, sir; I was willing to drop the matter. I had only my word.

Q.—When you got hold of the matter you could?

A.—How is that?

Q.—In the presence of witnesses?

A.—I have told you I didn't want this thing to be made public.

Q.—You didn't want it known?

A.—No, sir.

Q.—And you asked him the next day you met him if he had found his man?

A.—Yes, sir.

Q.—He gave you no intelligible reply?

A.—No, sir.

Q.—What did he say?

A.—I can't tell you what he said.

Q.—Did he say anything?

A.—He mumbled something.

Q.—You could not understand?

A.—No, sir.

Q.—Have you ever said anything to him about it since?

A.—Not a word.

Q.—Have you ever told anybody but Mr. Boruck and Mr. Spencer about it?

A.—Yes, sir; I have told Mr. Tom Mooney, and Mr. Rideout, of Marysville.

Q.—Anybody else in this city?

A.—No.

Q.—You told Mr. Spencer, you say, that night?

A.—Yes, sir.

Q.—Asked him to keep it secret?

A.—Yes, sir.

Q.—Asked Mr. Boruck to keep it secret; told Mr. Boruck not to divulge the man's name—Richard Brown?

A.—I don't know that I spoke anything about his name, but I told him that I didn't want a noise made about this. I didn't want no explosion about it. I told him just as this: if he could beat Mr. Booth on this without a public exposure he could, but I didn't want to be mixed up with it.

Q.—You was willing it should be used as an argument against Mr. Booth, if it would work to his defeat?

A.—Yes, sir.

Q.—But you was not willing to use it to secure the best interests of the people of the State?

A.—I thought it would work to the interests of the people of the State if we could keep Mr. Booth from being elected.

Q.—You thought the interests of the people of the State could not be protected by divulging it openly? You could not reach that point as well?

A.—Well, it was just this, as I have told you—

Q.—You were afraid of a second wardrobe scene?

A.—No, sir.

Q.—And didn't want to be caught in a trap?

A.—No, sir.

Q.—Why, then, did you promise secrecy to Brown? You had not gone far enough then to become tainted?

A.—I could not avoid it then. He first spoke to me before he made this proposition of two thousand dollars; he then said, it would be on honor the proposition be then made.

Q.—Of course, it would be on honor with a man of that character—a man trying to buy votes for a Senator?

A.—Yes, sir.

Q.—It was all honorable?

A.—Yes, sir.

Q.—You looked on it in that light?

A.—Well, I looked on it just this way, that if you believe the newspapers, it is a common occurrence.

Q.—So it didn't shock you?

A.—No, sir; the newspapers had educated me up to that point, that votes are bought at every Senatorial election.

Q.—And your nervous feelings didn't feel a shock?

A.—No, sir.

Q.—Nor your conscience?

A.—No, sir.

Mr. Curtis—You declined peremptorily his proposition?

A.—Yes, sir.

Q.—And had nothing to do with him?

A.—Yes, sir.

Q.—And you say that you believe if you had agreed to his proposition, that you religiously believe he had the money and would have paid you?

A.—Yes, sir; I believe he had the money.

Mr. Curtis—The Judge asked you if, up to that time, you were not tainted? I ask you if, up to this time, you are untainted?

A.—Yes, sir.

Mr. Norton—I didn't wish to imply that the member is tainted. I look upon him as honorable as any member in the House.

Mr. Carter—I think so, too.

Mr. Amerman—Mr. Carter, did you understand that when Mr. Brown made you this offer, that Mr. Brown was acting with the Democratic or with the Independent party?

A.—I knew very little about him. I had asked. All that I knew of him was from this gentleman, Mr. Campbell, that was a candidate for Sergeant-at-Arms of the Senate; and I understood from him that he was a Democrat, and that was all I knew about him. Whether he was working for the Independents or Democrats, I don't know.

Mr. Coggins—Did Mr. Brown say whether this money was his own, or whether it had been furnished to him?

A.—He didn't say. He said, just as I have stated, that he would place two thousand dollars in my hand, in gold notes, if I would vote for Mr. Booth, and that I should not be called on to vote for Mr. Booth that day.

Mr. Curtis—Mr. Carter, you could not infer that Mr. Brown was acting with the Democratic party, when he stated to you that he was deeply interested in the election of Governor Booth?

A.—I didn't suppose—

Mr. Norton—Did you not know that he had been and was the Clerk elected by the Democratic party? He was their nominee?

A.—No, I don't know that he was their nominee. I know there was a number of candidates in nomination, but I didn't know who they were. I only knew that there was no possibility of electing a Republican at that election.

TESTIMONY OF J. F. SWIFT.

J. F. SWIFT called, sworn, and examined:

Mr. Summers—This is a charge made by Mr. Boruck against undesignated members of the Assembly—a charge of bribery in regard to the late Senatorial election. You will please state to the committee what you know in regard to it, and all about it.

Answer—I don't understand you.

Question—I say there is a charge made by Mr. Boruck against undesignated members of the Assembly, of bribery.

A.—I would not know what to say, Mr. Chairman.

Mr. Curtis—Do you know, Mr. Swift, anything, of your own knowledge, in regard to any frauds that have been committed by any person

or persons, in the late Senatorial elections, any of them, or either of them?

A.—I understand the question.

Q.—Do you know, of your own knowledge, by persons from whom you could get any information?

A.—I don't know anything but what I have read.

Q.—I believe you have heard it talked about and rumored through other quarters than the paper?

A.—Only what I have heard of this affair.

Q.—Do you know of any proposals having been made by any persons, candidates for the position of Senator, or their immediate friends, of any promise of reward, or offer, or any favor bestowed, or to be bestowed upon any person, for his vote?

A.—No, sir; I know nothing of that.

Q.—All that you know is what you have heard as rumors; you know nothing of your own knowledge, or do you know of any person who has given you knowledge?

A.—I think I know the contrary, though, of course, I don't know that; but, so far as I know, the contrary is the fact.

Q.—You mean to say, then, that nothing of that sort has ever happened, has it, in your presence?

A.—No, sir; on the contrary, so far as I know, I have every reason to believe that nothing of the kind has ever happened.

Mr. Norton—Do you say, then, Mr. Swift, that so far as you know it has not. You were upon intimate terms with Governor Booth during this contest?

A.—Yes, sir.

Q.—You were frequently at his place, and in his office here at the Capitol, and is it not a fact that, so far as Governor Booth was concerned, he emphatically stated to you and to me that he would rather be beaten than to compromise himself, or his office, in anywise; has he not, repeatedly, stated that to you, in substance?

A.—Well, I have always so understood it. I was trying to think of any particular statement to that effect.

Mr. Curtis—We disclaim any participation in this portion of the investigation, because Mr. Boruck has never charged Mr. Booth with anything.

Mr. Swift—My understanding of this conflict, and in that, perhaps, I have had as much knowledge as any other one person, has been from the commencement, that no money or promise was to be made, or was made, by anybody to anybody.

Q.—Do you know Richard Brown, of San Francisco, now the Enrolling Clerk of the Assembly?

A.—I partly know him; I never knew him until since his election; I didn't know him at the time of his election; I just know him.

Q.—You say you were familiar with the contest and with the workings. Did you know of Richard Brown working in the interest of Governor Booth?

A.—I never heard of it.

Q.—Did you look upon him during that contest as the friend of Governor Booth in any sense of the term?

A.—Not for a moment. I don't know now, sir, which side he was on; I could not say whether he was for him or against him. If he was for him or against him, I don't know the fact that he was.

Mr. Curtis—You don't pretend to know, Mr. Swift, those who were for him or against him?

A.—Oh, no, sir, except those that were very prominent. He might have been very prominent against him without my knowing it, but still he might have been very prominent for him without my knowing it.

Q.—He was one of those disinterested friends that didn't come into your circle?

A.—Yes, sir.

Mr. Amerman—Mr. Swift, there is one question I would like to ask here. It was brought out by Mr. Norton. At the time of the contest for Enrolling Clerk (I believe Mr. Brown is the Enrolling Clerk, is he not?) I believe there were but two candidates before the House for that position?

A.—Yes, sir.

Q.—Was Mr. Brown looked upon as a Democratic candidate or as the Independent candidate?

A.—My impression is, Democratic.

Mr. Curtis—Was not Tod Robinson the Democratic candidate?

A.—Yes, sir. I was wrong. I had Tod Robinson in mind when I answered him, because I voted for him.

Q.—You was a Dolly Varden voting for a Democrat?

A.—Yes, sir.

Q.—That was right?

A.—No, I don't know what Mr. Brown's politics are, even now.

Mr. Amerman—I didn't attach any particular importance to it, except fixing Mr. Brown's political status, so far as possible.

TESTIMONY OF HENRY EDGERTON—(RECALLED.)

HENRY EDGERTON, recalled:

Mr. Norton—Mr. Edgerton, you have also taken an active part as the friend of Governor Booth in the late Senatorial contest, did you not?

Answer—Yes, sir.

Question—As one of his warm political friends during that contest, did you or did you not at any time understand that Richard Brown was working in the contest?

A.—I never heard of him. I never heard his name mentioned in connection with the contest until I came into this room.

Q.—Didn't meet him as one of the friends of Governor Booth—as one of the parties who had taken sides and were making a square stand-up fight? You didn't meet him and know he was?

A.—I never saw him at Governor Booth's quarters, or at the quarters of anybody connected with the fight.

Q.—And this is the first time?

A.—The first time I ever heard his name mentioned in connection with the Senatorial election.

Q.—I believe you have already stated in your examination, when first placed on the stand, that during the contest you knew of no promise of office or any inducement held out by Governor Booth, or any one of his friends, to sway voters?

A.—Nothing of the kind.

Q.—How is it on the contrary?

A.—I know that money was refused even for hack hire.

Q.—You were in this contest from its inception, were you not?

A.—For a year, sir. I think I know all about it.

Mr. Freeman—I move that Richard Brown be summoned as a witness. The motion was seconded by Messrs. Coggins and Simpser, and carried.

TESTIMONY OF S. SPENCER.

S. SPENCER, called, sworn, and examined:

Mr. Summers.—Mr. Spencer, this is a charge made by Mr. Boruck against the honor and honesty of undesignated members of the Assembly, in regard to an alleged bribery in the late Senatorial contest. Do you know anything about it? If you do, please state to the committee.

Answer.—I know nothing about it personally. I know nothing about it, I say, except what Mr. Carter has told me, and what I have seen in the papers.

Mr. Curtis.—I will ask you, Mr. Spencer, if you know anything about any improper conduct on the part of any person, whether a member of the House or Senate, in regard to the Senatorial contest, or any one else?

A.—No, sir; I don't.

Q.—Have you heard it talked about?

A.—Yes, sir; I have seen it spoken of in the papers, but I have heard no more about it, I believe, than anybody else has.

Q.—Has any member of either body, of either the Senate or the House, stated to you that any proposition of that sort had been made to him?

A.—Yes, sir; Mr. Carter did.

Q.—What did he state to you?

A.—He stated that he had been offered two thousand dollars.

Q.—Do you know what time that was, Senator?

A.—That was previous to the final vote for Booth.

Q.—A day or two before?

A.—Yes, sir.

Q.—Did he state to you who made him the proposition?

A.—No; I am not certain; yes, he did.

Q.—Did he enjoin secrecy upon you as to the name?

A.—Yes, sir.

Q.—He has already released you. Do you remember the name?

A.—I think it is Smith.

Q.—How would it be if it were Brown?

A.—It is possible.

Q.—Did he mention anything by which you could designate him? Did he state whether he was a member or an attaché?

A.—He was an attaché. I don't remember now in what capacity.

Q.—Now, what is the best of your recollection, Senator, in regard to the name?

A.—Well, as I said before, I don't recollect the name exactly.

Q.—Have you heard anything of that sort from any other person or persons, Senator?

A.—No, sir; I have not, sir.

Mr. Norton—You say, Senator, that you know nothing about it, of your own knowledge?

A.—Nothing whatever.

Q.—No one approached you; you were in the contest?

A.—No, sir.

Mr. Amerman—Senator Spencer, you are well acquainted with Mr. Carter, the member from Yuba?

A.—Well, I can't say that I have been much acquainted with him until since he came here. I know he had a good reputation.

Q.—From your own knowledge, and from his reputation, would you believe him to be a man of truth and veracity, whose statements might be implicitly believed?

A.—Yes, sir.

Mr. Coggins—I make the motion that Mr. Anthony be called in. He is present, and is very desirous.

Mr. Anthony was called, but did not respond.

TESTIMONY OF E. B. MOTT, JR.

E. B. MOTT, JR., called, sworn, and examined:

Mr. Summers—This is a charge made against the honor and honesty of certain undesignated members of the House, in regard to alleged bribery in the late Senatorial election. If you know anything about it, the committee would like to hear what you know in regard to the matter.

Answer—I believe I know nothing whatever.

Mr. Curtis—During the Senatorial contest, Mr. Mott, where were you?

A.—In Sacramento.

Q.—In what business were you engaged at that time, Mr. Mott?

A.—In the stove and metal business.

Q.—Down on J street?

A.—Yes, sir.

Q.—Was you around much, Mr. Mott, among parties interested, or of their friends, in the Senatorial contest.

A.—Somewhat.

Q.—Do you know the club room on that corner of J and Second streets?

A.—Yes, sir.

Q.—Did you ever hear the matter talked over—of this Senatorial question—the fitness of the candidates?

A.—I have.

Q.—Do you know, Mr. Mott, of your own knowledge, of any improper means of any sort having been used by any person engaged in that contest?

A.—I do not.

Q.—You know nothing, of your own knowledge?

A.—Nothing whatever, of my own knowledge.

Q.—Have you heard it talked of frequently, Mr. Mott, this question of the Senatorial contest, discussed there?

A.—I think I have, sir.

Q.—Were the partisans, or friends, of all the candidates, in the habit of visiting that room, or only those of one particular candidate?

A.—The friends of all the candidates.

Q.—The club room, then, was not in the interest of any particular candidate?

A.—No, sir; it was not. It was open to all invited by a member. It was an open club room; open to all that chose to visit the club room; the friends of any member.

Q.—Do you know of any wagers, or bets, in regard to the Senatorial election?

A.—Yes, sir.

Q.—Do you know the conditions of the bets?

A.—Yes, sir.

Q.—Would you have any objection to giving the names of those who bet?

A.—No, sir.

Q.—If you know the conditions, please state to the committee what they were.

A.—That if one particular candidate won, to wine the crowd. The money was put up with the understanding that it was to be so used.

Q.—By whom were the bets made?

A.—The money was bet between a gentleman living in San Francisco, a prominent politician, and a Grass Valley man. Each one wagered the amount of money they had in their respective pockets, which happened to be forty-two dollars, which was drank up in wine on the Sunday succeeding the Senatorial election.

Q.—Was that the only bet you know of?

A.—Yes, sir; the only bet, with the exception of a bet I made with a gentleman that the election would not take place till January, by the which I lost that hat.

Q.—It took place in December?

A.—Yes, sir.

Q.—You could not control the result?

A.—No, sir; or I would have won the hat.

Q.—Do you know of any person or persons, Mr. Mott, who offered, or pretended, or spoke about moneys being advanced, or spoke about any office, or promise of office?

A.—Mr. Curtis, I assert, most solemnly, I do not.

Q.—I don't ask you with reference to any particular candidate, but any candidate?

A.—No, sir; I do not.

Mr. Amerman—Mr. Mott, are you acquainted with a man by the name of Richard Brown?

A.—I am not, Mr. Amerman, I don't know him by sight.

TESTIMONY OF D. J. STAPLES.

D. J. STAPLES called, sworn, and examined:

Mr. Summers—Mr. Staples, there is a charge, made by Mr. Boruck through his paper, against the honor and honesty of undesignated members of the Assembly in regard to the alleged bribery in the late Senatorial election; now, if you know anything in regard to that matter, you will please state to the committee.

Answer—I don't know anything in regard to that matter at all.

Mr. Norton—Where do you reside, Mr. Staples?

A.—San Francisco.

Q.—Was you here during the Senatorial contest?

A.—Yes, sir; on that day.

Q.—What time did you arrive in Sacramento during the contest, and how long did you remain?

A.—What time in the day did I arrive here?

Q.—No, sir; what time in the month?

A.—Well, really, I don't remember. It was the week previous to the adjournment—previous to the holidays. I came here on the morning train, and went away the next morning.

Q.—What business called you to Sacramento?

A.—Well, I came on the invitation of a man that was interested, who was an applicant for a place, and he thought if I would come up and help him with my influence, he might be successful.

Q.—An applicant for a place in the Legislature?

A.—No, sir; for the vacancy of a Judgeship in San Francisco.

Q.—In the interest of Judge Sharpstein?

A.—No, sir; I wanted Mr. John B. Harmon appointed.

Q.—It was in his interest you came here?

A.—No, sir. ——— telegraphed me. I told him if he thought I could help the matter along any to telegraph to me, and I would come up.

Q.—How long did you remain?

A.—From twelve o'clock until the next morning at seven.

Q.—Did you take any interest in the Senatorial contest?

A.—Yes, sir; I always take an interest in all public elections.

Q.—Did you, during the contest, or have you since, learned of any inducements being offered to any members of either House, to gain their vote for any candidate?

A.—Inducements of argument or money?

Q.—Money?

A.—No, sir.

Q.—Promise of place?

A.—No, sir.

Q.—Position?

A.—None, whatever.

Q.—No inducement of that kind.

A.—No, sir.

Q.—What kind of arguments do you refer to—of the persuasive kind?

A.—Yes, sir.

Q.—Are you acquainted with Senator Finney?

A.—Yes, sir.

Q.—Were you aware that he changed his vote during the contest?

A.—I was, sir.

Q.—Do you know what induced him to change?

A.—Well, of course I can't tell all the motives that induced him. I know I visited him that afternoon, and urged him very strongly to do so; giving him what I thought was a good reason, that evidently the people wanted Governor Booth as Senator; and the conversation I held with him was in the presence of T. G. Phelps and another gentleman, and I urged it very strongly upon him, with the best arguments I could make.

Q.—Where did you meet him?

A.—At his rooms, across the way.

Q.—How long did you remain with him?

A.—Well, I was with him perhaps an hour and a half the first time.

Q.—How much of the time during your stay here did you spend upon the other business you had, to wit: the appointment of a Judge?

A.—Well, I met Governor Booth and I spent perhaps half an hour up in the library talking about what the prospect was, and I saw Governor Booth there.

Q.—Had anybody telegraphed to you or sent a message to you to come up and take stock in the Senatorial fight, before you did come?

A.—No, sir; it was in reference to the other matter. I had written and induced other gentlemen to write in reference to the matter.

Q.—How long had you been acquainted with Senator Finney?

A.—Well, I had met the Senator on several occasions at the houses of different gentlemen.

Q.—Were you upon intimate terms with him?

A.—No, sir.

Q.—Then how did you happen—how did it happen that you would so far intrude upon him as to go to his private rooms and urge these arguments upon him.

A.—Well, I went there to find Phelps. My object was to find Phelps. I went then to Judge McCune's house on I street, knowing that Phelps' wife was there; I think he was there. They told me that Phelps was in Finney's room, and I went there and found him.

Q.—Had you any idea of meeting Senator Finney there?

A.—Well, I didn't expect to unless he was out of the Senate chamber. I was told by Mrs. Phelps that Phelps would be likely to be there.

Q.—Did you, during that conversation with him, hold out any inducement to the Senator to change his vote, except the argument that you had made?

A.—None in the world, sir; I had nothing to offer him.

Q.—You say that you had met Governor Booth that day, prior to your coming over?

A.—Yes, sir.

Q.—You had an interview with him in his office in the Capitol?

A.—Yes, sir.

Q.—Did he speak to you with reference to Senator Finney, and if it would be possible to get his vote for him?

A.—I mentioned Finney among others that were in the caucus, and he said no, he didn't think it was possible. I asked him if I should get these names for him.

Q.—You made him (Finney) no promise?

A.—No, sir; none whatever.

Q.—Held out no inducement?

A.—No, sir.

Q.—You did reason with him the best you could?

A.—Yes, sir.

Q.—Did he, during that interview, promise to you to change his vote?

A.—No, he didn't at that interview. Later in the evening he stated that he thought he should change his vote.

Q.—Where did you meet him later in the evening?

A.—I met him at his room.

Q.—By appointment?

A.—No, sir; I went up there perhaps at seven or eight o'clock.

Q.—Was it agreed between you and Senator Finney, before you left, that you should come back there in the evening?

A.—Yes, sir; I think I told him I would come back in the evening, when I parted with him about dark.

Q.—How late was it in the evening before he promised you to change his vote?

A.—He did not promise me at all.

Q.—I understood you to say that he told you he would change his vote?

A.—Yes, sir; Mr. Phelps was there, and we walked over to Senator Goodale's room, Senator from Contra Costa, and he announced to Goodale that he was going to do it, and Goodale felt that he was doing right; that was the first time that he said it to him.

Q.—And at that time no inducements had been held out to him by you or any other person, so far as you know, to change his vote?

A.—No, sir.

Q.—Did he give any reasons why he was going to change his vote, did Senator Finney to you?

A.—Well, I think he gave a number of reasons; he thought this thing had been put up; he felt very uncomfortable in the caucus where he was, and he thought he would be doing right to do it.

Q.—Did you read the speech that he made when he explained his vote in joint convention?

A.—Yes, sir.

Q.—Were those the reasons that he named at that time, in substance?

A.—Well, I do not remember the exact wording of that, now, but my recollection is they were about the same.

Mr. Curtis—Since the Senatorial election, Mr. Staples, have you not claimed or stated in the presence of parties, that it was through your influence, or you had the honor of pulling Senator Finney from Shafter to Booth?

A.—That is a version I have not heard till lately. I have said it was my good fortune to see Finney and argue with him, and I felt I had some influence with him; I felt I had given him a good reason, which satisfied him to make a change.

Q.—Do you remember to have said to a gentleman since—after the election—saying to him, “I am the man that pulled Finney from Shafter to Booth?”

A.—I do not remember using such language.

Q.—If you had used it would you have remembered it?

A.—I might have used it; I know I have stated on several occasions that I believed I was instrumental at that particular time in influencing Finney to change his vote.

Mr. Norton—Can you now state to the committee the arguments which you then used? Did you say in your judgment this changed him?

A.—I cannot say that I did. I used the best arguments I could, and I believe they influenced him.

Q.—Do you think you could give those arguments to me?

A.—I took this view of it: that Mr. Booth was the choice of the people of the State, and I believed it was a crime for men to keep up this contest and prolong it week after week, when the sentiment of the people was so pronounced?

Mr. Norton—Did you make any other points with him?

A.—I do not know; you can ask Mr. Phelps; he heard it all; I can only tell you the substance of it.

TESTIMONY OF WM. W. DODGE.

WM. W. DODGE called, sworn, and examined:

Mr. Summers—Mr. Dodge, this is a charge brought by Mr. Boruck, through his paper, against the honor and honesty of undesignated members of the Assembly, in regard to alleged bribery during the late Senatorial election; if you know anything in regard to the matter will you please state it to the committee?

Answer—I don't know anything about it.

Mr. Norton—The investigation, according to my view of it, takes a wider scope. The authority conferred upon the committee was to investigate charges of bribery, not simply upon the accusations made by Mr. Boruck, in the *Spirit of the Times*. The power and authority have been conferred upon this committee to investigate bribery and corruption against any man, if any there were.

Mr. Summers—Most certainly.

Mr. Norton—Were you here during the Senatorial contest?

A.—Yes, sir.

Q.—How long did you remain in Sacramento City, during that contest, Mr. Dodge?

A.—Every day until the election.

Q.—You are the business partner of Governor Booth?

A.—Yes, sir.

Q.—Intimately connected with him in the vote, were you. Your feelings were very friendly towards him, from first to last, during that contest?

A.—Yes, sir.

Q.—Do you know of any inducements being held out by Governor Booth, or any of his friends, to induce parties to vote for him, in the interest of Governor Booth, or any one else. Did you, during that contest, give free dinners at the Sacramento Club-room?

A.—No, sir.

Q.—Did you, in any manner, try to influence any votes in favor of Governor Booth; I mean, in any manner, by offering any bribe, or hope of place or position?

A.—No, sir.

Q.—Do you know of any man that did?

A.—No, sir.

Q.—You say you was merely here during the contest?

A.—Yes, sir; I was here from the last of November to the twenty-third of December.

Q.—The contest commenced, I believe, on the twentieth, did it not?

A.—I won't be sure whether it was the twentieth or twenty-first; I know I went home on the twenty-third, however.

Q.—Have you heard, or did you hear, during the contest or since, of any offers being made by any one?

A.—No, sir.

Q.—For the purpose of obtaining votes?

A.—No, sir.

Q.—Did you read the article in the *Spirit of the Times*, that was published on the twenty-second of December following the Senatorial election?

A.—No, sir.

Q.—Have you ever read that article?

A.—I don't remember that I ever have.

Q.—Has your attention ever been called to it?

A.—Extracts from it in other papers.

Q.—Where charges of bribery and corruption were made; that is the article that I allude to?

A.—Yes, sir.

Q.—Do you know Richard Brown, of San Francisco?

A.—I suppose he is the man elected Enrolling Clerk?

Q.—Yes, sir; during all that contest did he take a part in it?

A.—Not that I know of. He said he did. He was friendly with Booth.

Q.—He said he did?

A.—He said he was friendly to Booth.

Q.—When did you first hear him say that? You had a conversation?

A.—After Booth was elected.

Q.—That is not what I asked you?

A.—You asked if I had any conversation with him.

Q.—Did you have any conversation with him before Booth was elected?

A.—I might have. I don't know. I had a conversation with him after he was elected Clerk.

Q.—He was elected Clerk before that?

A.—Yes, sir.

Q.—After the fight for Clerkship was over, did he say anything about his being friendly to Governor Booth, and wishing to see him succeed?

A.—He might; but I don't remember. Most everybody expressed an opinion. I could not say what was said.

Mr. Curtis—You say, Mr. Dodge, that he seemed to be interested in his own contest for Clerkship? Then you must have had a conversation with him before he was elected?

A.—Oh, I had a conversation with him frequently. I told him, so far as I was concerned, I didn't have anything to say about it. I didn't come up here to log-roll for anybody.

Q.—Did you have any conversation with him about the election of United States Senator, at that time?

A.—No, sir; I might have, though, in general terms—how he was getting along, or something of that kind. Most every gentleman I met would have something to say.

Mr. Coggins—How long have you known Mr. Brown?

A.—Well, I knew him about three years ago, when he was first Deputy Sheriff, but I have not known him very intimately. I don't suppose I spoke to him more than once or twice a year.

Q.—Did he seem to take any part in the contest—any interest in it?

A.—No, sir; he didn't show any great interest, I didn't think, so far as I know. A great many said they were for Booth, that voted against him and worked against him; I know that. I don't know about him.

Mr. Amerman—Mr. Dodge, during that Senatorial contest, were you a frequenter occasionally, or otherwise, of the Sacramento Club-room?

A.—Yes, sir; slept there.

Q.—Did you ever see Mr. Brown there?

A.—Never, to my knowledge. He might have been there a great many times. A great many come in; but he never came there on my invitation, and I don't know that I ever saw him there.

TESTIMONY OF J. T. GLOVER.

J. T. GLOVER called, sworn, and examined:

Mr. Summers—Mr. Glover, this is a charge of bribery brought against the honor and honesty of undesignated members of the Assembly in regard to the late Senatorial election. If you know anything about it, you will please state it to the committee?

Answer—I don't know anything about it.

Mr. Norton—You are a business partner of Governor Booth, are you not?

A.—Yes, sir.

Q.—You reside in San Francisco most of the time, Mr. Glover?

A.—Most of the time, sir.

Q.—Was you here during the late Senatorial contest?

A.—Yes, sir. I was not here the day of the election; I was here the first day.

Q.—What time did you come here?

A.—I was here the first two days.

Q.—How long did you remain?

A.—Two days—Monday and Tuesday.

Q.—And then you returned to San Francisco?

A.—Yes, sir.

Q.—Was here only two days?

A.—I think only two days. I came up Saturday—that night.

Q.—Do you know of any money, checks, promises, or anything else, being offered to any voter to go for any candidate?

A.—No, sir.

Q.—Did you read the article that was published in Mr. Boruck's paper, the *Spirit of the Times*, on the twentieth of December, immediately following the Senatorial election? The election, I believe, took place on the twentieth?

A.—I believe I did; I either read the article in his paper, or read a copy of it.

Q.—Did you frequent the Sacramento Club-room during your stay here?

A.—I always do when I am in the city.

Q.—Well, did you at this particular time?

A.—Well, several times a day.

Q.—Are you acquainted with a man by the name of Richard Brown?

A.—I don't know him.

Q.—You don't know him at all?

A.—No, sir; I never saw him, to my knowledge.

Q.—You took a deep interest in Governor Booth's election, did you not?

A.—Well, I preferred him to most everybody else.

Q.—Preferred him to anybody else?

A.—Yes, sir.

Q.—Did you know or hear of any inducements such as I have named, to wit: money, checks, promises—promises of place, of position—being held out to anybody to vote for Governor Booth?

A.—No, sir.

Q.—You were actively engaged in his fight, were you not?

A.—I don't know that I was.

Q.—How?

A.—I don't think I was. I never had anything to do with it at all.

Q.—You didn't take any part in it; any active part in the fight, then?

A.—No, sir.

Mr. Curtis—Mr. Glover, I understand you to say that you don't know of any money, checks, drafts, or promises being given to any person to vote for any candidate for the United States Senate. Do you know of any money being given to anybody as an inducement to procure votes for the United States Senator, not only for Governor Booth, but for any person who was a candidate, not only Governor Booth, but to any person procuring a vote for any man who was a candidate.

A.—I don't know.

Q.—You say that you didn't yourself or don't know of any one doing it for that purpose?

A.—No, sir.

Mr. Amerman.—I move that this committee do now adjourn until to-morrow.

Mr. Norton desired to have Mr. Northup examined before the adjournment, and the motion of Mr. Amerman was withdrawn.

TESTIMONY OF T. M. NOSLER.

T. M. NOSLER, called, sworn, and examined:

Mr. Summers—The object of this investigation is in order to investigate certain charges made against the honor and honesty of undesignated members of the Assembly, in the late Senatorial election. If you know anything in regard to this matter, you will please state it to the committee.

Answer—No, sir.

Mr. Norton—Mr. Nosler, were you here during the late Senatorial contest in Sacramento?

A.—Yes, sir.

Q.—What time did you arrive here?

A.—Two or three days before the Legislature convened, I think, and stayed till after it was over.

A.—Stayed till after the twentieth of December?

A.—Yes, sir; here all the time.

Q.—Did you take any interest in the contest?

A.—Yes, sir.

Q.—In whose interest were you working, if at all?

A.—Governor Booth. I was anxious for him to be elected Senator.

Q.—Where did you make your headquarters during your stay.

A.—At his rooms a great deal. I slept at the Grand.

Q.—Took your meals a great deal at Governor Booth's.

A.—Sometimes at a restaurant, most of the time there.

Q.—State to the committee if you know if, at any time during that contest, any money, gold coin, gold notes, and checks or drafts, or any promise of position or place, were offered to any person to gain votes for Governor Booth, or any other one in the contest?

A.—I don't know of any. I didn't make any.

Q.—Do you know of any money, or anything of value, being placed in the hands of any middle man to be used for the purchase of votes?

A.—No, sir; I don't.

Q.—Did you hear of any such thing during the contest?

A.—No, sir; not that I know of.

Q.—Was you at the Sacramento Club-room frequently?

A.—No, sir; I was only there once. I went there one night. There was a party there; I didn't find him.

Q.—During the time you was there, you had various conversations with the friends of Governor Booth?

A.—Yes, sir; and others that were not his friends.

Q.—More particularly the friends—those who were friendly to him—inasmuch as you were working with them?

A.—Yes, sir.

Q.—Did you hear from them that any such offer was made, or had been made, or would be made?

A.—No, sir; I did not.

Q.—And you know nothing about it?

A.—No, sir.

Q.—Do you know Senator Finney?

A.—Yes, sir.

Q.—Do you know that he changed his vote during the contest?

A.—Yes, sir.

Q.—Do you know whether any inducement was brought to bear upon him to cause the change?

A.—No, sir; I never was introduced to him until after the thing was over.

Q.—Didn't know him until the contest was over?

A.—No, sir.

Q.—Do you know Richard Brown?

A.—Yes, sir.

Q.—How long have you been acquainted with him?

A.—Ten or eleven years.

Q.—You have been acquainted with him ten or eleven years?

A.—Yes, sir.

Q.—Were you intimately acquainted with him?

A.—No, sir; I knew him in the State of Nevada, and met him a few years ago in the City of San Francisco.

Q.—What business has he followed?

A.—He has been in the Sheriff's office under P. J. White.

Q.—Was he there until the time he came up here and was elected Enrolling Clerk? Was he then in office?

A.—He received his discharge. He was not under Mr. Adams, I don't think. I seen him occasionally on the street.

Q.—Do you know what business he followed when not in the Sheriff's office?

A.—No, sir; I saw him seldom.

Q.—What is his reputation in the City of San Francisco among those who know him?

A.—Oh, I don't know.

Q.—I mean his general reputation for truth and veracity, honesty, and integrity.

A.—I don't know anything about him, myself.

Q.—I did not ask you that question. Do you know what his reputation is among his friends and neighbors where he has lived in San Francisco the length of time you speak of?

A.—Oh, I have heard men say he is a sharp wiry fellow, but I have never heard his reputation called in question much.

Q.—First, do you know his reputation? Do you know what people generally say of him?

A.—No, sir, I do not.

Q.—You don't know what they generally say of him?

A.—No; I have never heard much said about him in any way.

Q.—You say you was here during all the time the contest was going on, in Sacramento, stopping at Governor Booth's place—taking your meals there and sleeping at the Grand Hotel?

A.—Yes, sir.

Q.—Did you at any time learn that Richard Brown was taking any part in the contest for Governor Booth?

A.—No, sir. He told me he was a candidate for Clerk.

Q.—Yes, sir; and he was elected before the Senatorial election?

A.—Yes, sir.

Q.—Now, during the time the Senatorial contest was going on, did you know that he was taking an active part in favor of Governor Booth?

A.—No, I did not.

Q.—Did you meet him here frequently?

A.—I met him around town frequently.

Q.—You did not learn from him or anybody else that he was taking stock in the fight, did you?

A.—No, sir.

Q.—Is he a man of wealth or means?

A.—I declare I could not tell.

Q.—Have you any means of knowing whether he had as much as two thousand dollars at his hand when he came here to Sacramento?

A.—I would have no means of knowing.

Q.—Being intimate with him in reference to this contest for Enrolling Clerk, I didn't know but what he had stated something to you about how he was fixed in money matters.

A.—No, sir, he did not.

Q.—You know nothing, then, about the truth of this matter?

A.—No, sir.

Q.—Neither of your own personal knowledge, nor from hearsay?

A.—No, sir.

Mr. Amerman—Mr. Nosler, you say you have known Mr. Richard Brown a long while—ten or eleven years?

A.—Yes, sir.

Q.—Has he not the reputation of what is called, in common parlance, a sport?

A.—No, sir; that is not the idea I had of him; because I run with that class of men sometimes myself, and I never have seen him there.

Mr. Curtis—He is more of a primary or political sharp?

A.—Yes, sir; a political sharp. They called him Pat. White's man—something of that sort. I don't know anything about it.

Q.—Do you know what his politics are?

A.—I have not heard this season what they are.

Q.—Mr. Coggins—Did you meet with him at any time at Governor Booth's rooms during this time?

A.—I don't think I ever saw him there; he might have been there.

Q.—Did you ever see him in Governor Booth's company, or at his receptions?

A.—I don't know; he might have been there; I don't think I ever did. He might have gone there. Sometimes there was a great many persons there.

TESTIMONY OF D. C. NORTHUP.

D. C. NORTHUP, called, sworn, and examined:

Mr. Summers—Mr. Northup, this is an investigation in regard to charges of fraud and corruption, made against the honor and honesty of undesignated members of the House, in regard to the late Senatorial election. Will you please state to the committee what you know in regard to the matter?

Answer—I am ready to answer any question you desire to ask me.

Mr. Curtis—You are a member of the House, are you, Mr. Northup—the present Legislature?

A.—Yes, sir.

Q.—Do you know anything, Mr. Northup, of any offers to any member of the House, or to anybody else, or proposal to change the votes for any candidate for the United States Senate?

A.—Not to my knowledge, sir.

Q.—Have you heard it spoken of by any person?

A.—I have.

Q.—By whom?

A.—By different parties, on the street.

Q.—Will you have the kindness to tell the committee what you know about it; what you have heard about it?

A.—I have heard so much, I don't know that I could tell any particular point.

Q.—You are acquainted with Mr. Ryan, the reporter of the *Chronicle*?

A.—I am not; but I believe there was a man by that name came to me something like a week after the article first appeared in Boruck's paper. He told me that he had understood from Mr. Boruck that I had been offered three thousand dollars. I asked him if Mr. Boruck told him that I had said so, and he said that he did, and I then told him it was not so, and that I could not charge that I had been offered three thousand dollars by Mr. Booth or any of his friends. He asked me if he should publish that, and I told him to publish what he saw fit to, so long as my name was not mentioned.

Q.—Then you never told Mr. Ryan that?

A.—I never told Mr. Ryan that anything had been offered to me.

Q.—Did you ever have a talk with Mr. Dixon about that?

A.—Mr. Dixon and myself, and one other member. We were in the Assembly Chamber, I think, at the time, and a member came in and says to me, I want you to go out into the hall; there is a man out there has got coin. I was asked to take it and expose the man, and I said I can't do it. I turned around to Mr. Dixon, and said I could not do it.

Q.—You made the same remark to him?

A.—Yes, sir.

Q.—Then I understand you, that there never was any offer made to you?

A.—By any of Mr. Booth's friends, or by anybody in connection with him?

Q.—By anybody?

A.—No offer was ever made to me to vote for Mr. Booth.

Q.—Was there ever any offer made to you to vote for Mr. Booth, or anybody else?

A.—Not for Mr. Booth, or any of the Senatorial candidates.

Q.—Did anybody ever offer you any drafts, check, bill, or money, or promise; any office, or hope of reward, for your vote, in the Senatorial contest?

A.—No, sir.

Q.—Did anybody who professed to be a friend to any candidate—did anybody ever make you such a proposition?

A.—No, sir.

Q.—Did you ever say so?

A.—I didn't.

Q.—Have you ever said that?

A.—I said if I should do certain things, that I would receive money for it; that it was not put up for me to vote for anybody.

Q.—Well, was it the intention that you should get somebody to vote?

A.—No, sir; it was the intention that I should not vote at all.

Q.—Then was there ever any money offered to you to keep away from the roll call?

A.—It was said to me that I should receive a sum of money if I didn't vote.

Q.—How did you vote?

A.—I voted for Mr. Hagar—for Mr. Farley.

Q.—Then you was offered money, did I understand you, if you would not vote at all?

A.—I was not offered money.

Q.—What was you offered?

A.—If I didn't vote for Mr. Farley, I would receive money; it was not offered to me. I asked no questions about it, because I didn't intend to accept it; therefore, I didn't make any inquiries.

Q.—Would you have any objection to give the committee the name of the party?

A.—I would, sir, because he is not here; he is an old man and made an apology to me.

Q.—If the committee should direct you to answer, would you?

A.—I don't think they could.

Q.—They could make you. I will ask you the question who it was?

A.—I don't feel at liberty to answer.

Q.—The Chairman of the committee can ask you?

A.—The gentleman has come to me since that time, and the statement he made to me was that he was very much excited, and requested me, if this thing happened, that I would not bring his name in this connection, and I don't feel that it would be right for me to do so.

Mr. Summers—Mr. Northup, we will have to demand an answer to the question. As I understand, that is the object of the committee to pry into this thing and ascertain whether there is anything wrong in regard to the matter. It is our duty to find it out and to investigate the matter. That is what we are here for.

A.—Well, I hope you will not press that question. I will telegraph to the man to-morrow. It would be placing him in a very peculiar position, and I promised him that I would not make his name known.

Mr. Norton—We are placed in a peculiar position. In obedience to the orders of the House our duty compels us to investigate this matter clear to the bedrock, without reference to friends or foes. The position you occupy here is the same as though you were in Court and the Judge had instructed you to answer the question. We would be powerless to investigate this question unless we had the power to compel answers to questions.

A.—I can telegraph to that man to come here. I should not want to give his name.

Mr. Summers—I can't see any impropriety, Mr. Northup, in answering the question.

Mr. Curtis—If the Chairman will permit me, I will pass this question and bring it up again. Are you certain, Mr. Northup, that Mr. Ryan told you that Mr. Boruck told him to come to you?

A.—That is my impression now, sir. I don't know that I would know Mr. Ryan if I should see him again.

Q.—That is the gentleman there, sir.

A.—That is as near the conversation as I can remember.

Q.—I would be glad for you to refresh your memory in regard to that particular portion of the conversation?

A.—That is the best of my recollection. I wouldn't swear to it, but I think he said Mr. Boruck. I didn't see the gentleman more than five minutes altogether, and might be mistaken.

Q.—Then you wouldn't be positive; not so positive as to contradict a party under oath. But that is your impression?

A.—Yes, sir; that is my impression; as near as I can recollect, that was about the conversation we had.

Q.—Was you ever approached by any other person, except this party whose name you decline to give, in consideration that you would absent yourself at the time of the election, and would not vote for any other one?

A.—No, sir.

Q.—You was at that time a partisan of Mr. Farley?

A.—Yes, sir.

Q.—You didn't accept that proposition, but appeared at the roll call and voted for Mr. Farley?

A.—So the record will show, sir.

Q.—You told Mr. Dixon of the matter at the time?

A.—That was at the time of this other affair.

Q.—At the time this party made the proposition to you?

A.—No, sir; not the party I spoke of. The party I spoke of to Mr. Dixon was another man entirely, but a member of the House told me a man sent for him to come out in the lobby, and he told me there was a man out there in the lobby that had money, and wanted me to go; that I should go out and take the coin and expose him.

Q.—Have you any objection to giving the name of that member who told you that there was a man outside who had coin?

A.—It was Ferguson.

Q.—Mr. Ferguson advised you to go out?

A.—It was advice. He said: "Go out and take his coin, for the sake of exposure."

Q.—You don't know who the man was?

A.—No, sir.

Mr. Summers—I would ask the committee whether Mr. Ryan would have the privilege to ask Mr. Northup a question, or not? It is a matter I would submit to the committee.

Leave was granted.

Mr. Ryan—Mr. Northup, I suppose, of course, that your recollection don't seem to be very clear about our conversation. I merely want to repeat to you what I stated awhile ago, and see where we differ. I said I came to you and told you that I was investigating Boruck's charges that some member of your House had been offered money; that I was told that you had been offered three thousand dollars; and I said, here, Messrs. Ferguson and Dixon were the gentlemen who had informed me, and I came to you and asked you and you stated to me that a man offered you money. You said no friend of Booth, that was the way. We talked over the matter, and some friends of yours were waiting for you at the time, and you said no friend of Booth's had offered you money; and I was about to leave you, and you said, but I will tell you this (I had told you I was a reporter of the *Chronicle*, and whatever I ascertained I intended to print). You said I will tell you this. I stated here that you said: "I have been offered money to change my vote from Farley to Booth." I asked you if any friend of Booth offered you that. You stated no. I asked you who it was, and you stated, no, you would not tell me, and no one could make you tell. He was an old friend of yours, and he was an old Democrat, and you was very much grieved that he could do such a thing, and your regard for him would not permit you to tell his name, and you conveyed the impression to me, through what you said, that he had made this offer for the purpose of defeating the Democratic caucus programme. The question now remaining is: Whether you stated that you were offered money for your vote, or whether you were offered money not to vote? You certainly told me, positively, knowing that I was a correspondent of the *San Francisco Chronicle*, that money was offered to you for your vote. I considered that money was offered from your conversation with me.

Mr. Northup—I considered money was offered if I dropped Farley. Perhaps you are nearer right in your recollection than I am. I know the conversation did not last five minutes; and the difference is, that I told you I was offered money not to vote, and not that I was offered money to vote.

Mr. Ryan—I want to point out to the committee that the only difference was that he says he was offered money not to vote, and I say he said he was offered money for his vote. I am willing to rest the matter right there.

TESTIMONY OF VINCENT RYAN—(RECALLED.)

VINCENT RYAN, recalled:

Mr. Curtis—Mr. Ryan, did Mr. Boruck tell you anything about that?

Answer.—No, sir, not at all in relation to this matter of Ferguson. I took it in jest about Mr. Ferguson. Mr. Ferguson was the first person I went to definitely for the purpose of procuring any information. I heard in the street about there being bribery and a chance to get money. I went to him and I said to him, "I want you to tell me the exact truth about this matter, because I am going to print it, and I don't want any wild talk about it." He said there had been a good deal of joking and talk about it, but nobody had offered him any money, and then he told me the story Mr. Northup told: that Albert Hart one day went into the Assembly chamber and called him out into the hall and intro-

duced him to Tom Nosler, the gentleman who was here awhile ago. Mr. Nosler told him he was an old Placerite, and he would like very much to have Booth elected, and he thought it was a splendid opportunity to distinguish himself, especially as the people wanted him; that only one vote was needed, and he thought it would be very much to his advantage to vote for Booth. I asked him if Nosler offered him money. He said no; not a word was said about money. "Well," I said, "what did you do about it?" He replied, "I told him I could not vote for Booth, and turned around and went off." I said "Did you say he offered you money?" He said no, and he had gone into the Assembly chamber, and there meeting Dixon said to him that there was a man out there who wanted him to vote for Booth, and he didn't know but what there was money in it, and I asked him directly whether any word had been said to him about money or coin, and he said no, not a word. My only object in going through the thing was that I said in the paper I didn't believe any friend of Booth's had ever offered a dollar, and I wanted to know if I was right or not, and I investigated the matter and satisfied myself that I was.

TESTIMONY OF B. C. NORTHUP—(RECALLED.)

B. C. NORTHUP, recalled:

Mr. Curtis—I leave the question for the counsel, for the committee; it would not be proper for me to insist upon it.

Mr. Northup—I would like to see the committee all together, and give them my reasons, and I think they will accept of them.

Mr. Norton—We would be powerless to proceed further with the investigation unless we did know the name of the party whom Mr. Northup says did make an explicit offer to him; the investigation might just as well close here, if there is to be any dodging or whitewashing. I suppose that we, probably, in the committee, would not have the power to compel him to answer; we would have to refer that matter back to the House, and show the House he had disobeyed the orders of the committee, and bring him before the bar of the House to see what reasons he had to offer to the House why he did not answer. If the House should accept them, it would exculpate the witness; if not, he would be forced to answer.

Mr. Norton—I wish to ask Mr. Northup one question, and if he refuses—

A.—I do not want you to understand that I refuse to answer this on any ground of my own.

Mr. Norton—We claim that there can be no justifiable ground. The people have a right to know; the people of the State, I state, have a right to know, and are interested in this matter. In our duty to them the considerations are higher than any one man can have in the matter. The object of this investigation is not to gloss over or whitewash any man or anything, but to get at the facts.

Q.—What time was this offer made to you—I mean the offer, the one that you refused to give the name of the man who made it?

A.—I should think it would, perhaps, be the second day of the contest—the second or third day.

Q.—Did you have more than one interview with him upon the subject?

A.—No, sir.

Q.—You said that he afterwards stated to you that he was excited—somewhat intoxicated?

A.—Yes, sir; that is the apology that he made to me.

Q.—Then you did have an interview with him?

A.—Well, sir, he saw this piece in Mr. Boruck's paper.

Q.—It was after that that he apologized to you?

A.—Yes, sir; he was out of town—out of the city—and he came to me.

Q.—That must have been, then, some ten days or two weeks after he made the offer?

A.—Yes, sir; I should think so.

Q.—Was the man stopping in the city all the time?

A.—No, sir.

Q.—In what county does he reside?

A.—He resides in Nevada County.

Q.—To what political party does he belong?

A.—Well, I think he is a Democrat.

Q.—Do you know what party he is working with?

A.—I never saw him vote, but I take it for granted he is a Democrat.

Q.—How many days did he remain in this city after that?

A.—I think he went away the next day, or next day but one.

Q.—Where was the offer made?

A.—In the Golden Eagle Hotel.

Q.—Did he take you aside?

A.—Yes, sir; he took me to his room.

Q.—What was the number of the room?

A.—That I could not state.

Q.—On the first, second, or third floor?

A.—That I don't know, either the second or third floor.

Q.—How long was you in the room?

A.—Probably ten or fifteen minutes.

Q.—Mr. ———, before you went up to the room, did he tell you what he wanted with you?

A.—No, sir.

Q.—How did he approach the subject?

A.—Well, he plumped at it pretty plain, and I told him I would not have anything to do with it. The old man was pretty well set up.

Q.—It was a fact that he was intoxicated?

A.—Yes, sir; he was intoxicated and I had no more conversation than I could help with him. He was so much intoxicated that he went to bed, and I left him there. He locked the door after me when I went out.

Q.—How much money did he offer you?

A.—He didn't offer any stated sum. He said I could have two or three thousand dollars.

Q.—In whose interest was he working?

A.—I don't know; I didn't ask.

Q.—In whose interest was he working?

A.—He wanted me to drop Farley—was the proposition he made.

Q.—Did he want you to vote for anybody?

A.—Simply to drop Farley.

Q.—To go away?

A.—He didn't say go away—simply asked me to drop Farley.

Q.—Did he show you any money?

A.—No, sir; he did not.

Q.—Was that before or after this gentleman came to you in the House, here, and said there was a man in the lobby that had money?

A.—No; that was before. That was the very morning of the election, I think; at least, after it was made.

Q.—Do you still call that an offer?

A.—No; I say the time that was made—not an offer; I never saw the parties that spoke to Ferguson. I thought Ferguson came in more out of fun than anything else.

Q.—You didn't attach any importance to that?

A.—No, sir; I never gave any weight to the matter. I casually repeated it to somebody.

Q.—Did you repeat it to anybody but Mr. Dixon and Mr. Ryan?

A.—Well, yes, I suppose I did. It was a man that I didn't think anything of—

Q.—Do you know Richard Brown?

A.—Yes, sir.

Q.—Did you ever have any conversation with him about it?

A.—I might and I might not; I don't recollect about it; still I might.

Q.—Have you had a conversation or any conversations with him about the Senatorial contest?

A.—Not to my recollection; still I might have had some. I don't recollect, though, of speaking to him about the Senatorial election at all. I have talked with a great many people about the Senatorial contest. I don't remember anything about it.

Q.—How long have you been acquainted with the old gentleman who made you the offer?

A.—I don't know; I never was intimately acquainted with him.

Q.—Had he been actively engaged in the Senatorial contest up to that time?

A.—No, sir; I don't think any further than he was here; and I think he was here three or four days.

Q.—Before he made you this offer?

A.—Yes, sir.

Q.—Did he say he would give you three thousand dollars, or you could make that?

A.—I could have it.

Q.—Just repeat his language.

A.—You can have two or three thousand dollars if you will drop Farley.

Q.—Now, that is what he said to you?

A.—Yes, sir. He didn't say he would give it to me; didn't say where I could get it; showed no money. Further than that, I said I would not do it, and got up and left the room. He took his coat off and went to bed, I think, at that time, because he locked the door after I went out, and I never had any further conversation with him about it until two days after the thing appeared in the paper.

Q.—That seemed to open his eyes a little?

A.—Then he came down here, and I met him at the State House steps, and he spoke to me about it, and said he was excited and intoxicated, which I knew he was, and apologized, and wanted I should think no more about it, and not to bring his name in, in case there was an investigation had.

Q.—Have you stated to the committee all you know about offers of

money, checks, or anything of value, or promises, in this whole Senatorial contest?

A.—Yes, sir.

Q.—You have stated it all?

A.—Yes, sir; everything that I know anything about at all, or heard of.

Q.—Now, what was that man's name that made you the offer?

A.—Mr. Norton, I should rather not answer that to-night.

Q.—I know that. You have so stated before; but our duty is imperative. We shall either have to have an answer to-night from you, or refer this matter to the House, and bring this matter before its bar to answer there; and it seems to me that it would be much easier for you to answer the question here than to answer it at the bar of the House, where you certainly would have to answer it. You can see at a glance, Mr. Northup, why it is that we are compelled to insist upon it, because it is the next link in the chain in the investigation. We shall send for the man. He must explain to this committee upon what authority he made that offer; if upon his own, so state; if for anybody else, so state; so that we can get at the whole truth.

Mr. Amerman—Mr. Chairman, I understand the delicate position in which Mr. Northup is placed; at the same time he should consider the position in which we are placed; what we are bound to do; what our duties require of us, and I want to give him every opportunity in the world to consider the matter, and I move the committee take a recess of ten minutes in order to give Mr. Northup time to consider the matter.

Mr. Ryan—You stated in the opening of your testimony here, Mr. Northup—said that you didn't know Mr. Ryan; never told Mr. Ryan that any money had been offered to you?

A.—I will explain that in this way: I didn't know who Mr. Ryan was at all.

Q.—Of course. What I want to get at is this: In giving my testimony, I said you told me that no friend of Governor Booth ever offered you any money; "but I can tell you this much, I was offered money to change my vote from Farley to Booth?"

A.—Well, I don't think I said that. I think what I told you was, I was offered money if I would drop Farley. I don't think I told you I was offered money to vote for Booth.

Q.—You don't deny that you was offered money?

A.—Well, I considered that——

Q.—The only difference is, that I say you said money was offered you to change your vote from Farley to Booth, and you say it was to drop Farley?

A.—Yes, sir.

The motion of Mr. Amerman was carried, and a recess of ten minutes was taken.

TESTIMONY OF B. C. NORTHUP—(RECALLED.)

The committee reassembled.

B. C. NORTHUP, recalled:

Mr. Norton—What was the man's name who made you the offer, as stated by you?

Answer—Thomas Hughes.

Q.—Where does he reside; what place in Nevada?

A.—Well, I don't know, in the southern part of the county, below Grass Valley; I don't know where.

Q.—How far from Grass Valley?

A.—I don't know. It is three, four, or five miles. He has got a ranch down there somewhere.

Q.—Is he a ranchman?

A.—Yes, sir; that is his business.

Q.—I believe you stated, Mr. Northup, that you were not acquainted with him.

A.—I was not very well acquainted with him.

Q.—Did you know him personally?

A.—I had never seen him to know him.

Q.—Do you know where his ranch is?

A.—I don't; I know it is below Grass Valley.

Q.—In what direction from Grass Valley?

A.—Well, that I could not tell you; I never was there. I am under the impression, though, it is to the southward of Grass Valley; but whether it was four or five or ten miles, I could not tell.

Q.—I am asking with reference to sending for him.

A.—I think Mr. Pelham could tell you exactly.

Q.—Is he an acquaintance of Mr. Pelham's?

A.—Yes, sir; I think so.

Q.—Is he an old resident of Grass Valley, so far as you know.

A.—Yes, sir; I think he is. Anybody in Grass Valley knows him.

Mr. Amerman—I move that this committee adjourns, subject to the call of the Chairman.

Mr. Curtis—You will remember that when Mr. Boruck was before you, he stated that he desired, if the committee would permit him, not to give the name at that time, but he would, if subsequently it was desired. You excused him and the name was given by Mr. Carter. We want the committee to understand that Mr. Boruck does not stand in contempt, at all.

The Chairman—I will authorize the Sergeant-at-Arms to subpoena Thomas Hughes.

Mr. Amerman—I move that we adjourn.

Mr. Norton—I move, as an amendment, that we adjourn to meet to-morrow evening at seven o'clock.

The motion as amended prevailed, and the committee adjourned.

SECOND NIGHT'S PROCEEDINGS.

THURSDAY, February 5th, 1874.

At seven o'clock the committee met. Present, a full committee.

All witnesses who had not yet testified were excluded from the room. Mr. Brown was granted leave to remain.

TESTIMONY OF RICHARD BROWN.

RICHARD BROWN, called, sworn, and examined:

Mr. Summers—Mr. Brown, the object of this investigation is to ascertain, in regard to the facts, with regard to alleged briberies and fraud charged against undesignated members of this present Assembly, in the late Senatorial contest. Will you please state to the committee what you know in regard to the matter, if anything?

Answer—Well, I am not conscious of having done anything, or bribed any person, and I would like to be asked questions.

Mr. Norton—What is your name?

A.—My name is Richard Brown.

Q.—Where have you resided before you came to Sacramento?

A.—I resided in San Francisco.

Q.—For how long a time in San Francisco?

A.—Six or seven years.

Q.—In what business have you been engaged in San Francisco?

A.—I have been in the Sheriff's office for four years of that time. I was a salesman part of the time with P. J. White & Co., on Front street. The balance of the time I have been engaged in collecting for a number of merchants in San Francisco, associated with an attorney by the name of Mr. Craddock.

Q.—What time did you come to Sacramento, with reference to the Senatorial contest, before its close? I mean the contest for the long term?

A.—Well, Mr. Norton, I did not come with a view of participating.

Q.—I did not ask you that. How long did you come before it closed?

A.—Well, I think, Mr. Norton, that I came here about a week—five or six days, thereabouts—before the organization of the House. I have forgotten now, really, as to what day; I believe it was two weeks after that, that the Senatorial contest commenced.

Q.—What day of the month were you elected Enrolling Clerk of the House? You were so elected, were you not?

A.—I believe so; yes, sir. Well, my memory is at fault about that; I forget, now, how many days it was. My contest was a very close one, and I believe it was made the special order for one or two days afterwards.

Q.—Were you declared defeated the first day?

A.—Yes, sir.

Q.—Your main competitor was Tod Robinson?

A.—Yes, sir.

Q.—On a subsequent day you were declared elected?

A.—Yes, sir. On a subsequent day it was declared a tie, and subsequently to that I was elected.

Q.—By a handsome majority?

A.—By a considerable majority.

Q.—Did you form the acquaintance of a man by the name of J. C. Carter, before you were elected Enrolling Clerk—one of the members of the House?

A.—I did, on or about that time.

Q.—On or about what time?

A.—A little before I was elected Enrolling Clerk—a Mr. Carter from Yuba?

Q.—Yes, sir. Under what circumstances did you form his acquaintance?

A.—Well, I think I solicited his vote.

Q.—For Enrolling Clerk?

A.—Yes, sir.

Q.—Was that the first time that you had ever met him personally?

A.—Yes, sir.

Q.—It was?

A.—I never knew him before, Mr. Norton. That was the first time I ever met him.

Q.—He was an entire stranger to you up to that time?

A.—Entirely so, sir.

Q.—After your contest was over, did you see him again?

A.—Oh, I saw him several times before that—before my contest was over. He came to me once, I believe, and told me if I would get him a man to vote for some man by the name of Campbell for Sergeant-at-Arms, he would support me for Enrolling Clerk. Well, I told him I would see what I could do about it; but I found that a friend of mine, by the name of Hawkins, was running for Sergeant-at-Arms in the Senate, and I didn't do anything in regard to obtaining a vote.

Q.—How much money did you bring with you from San Francisco?

A.—I think I had forty dollars or fifty dollars; may be a hundred.

Q.—When you first came up?

A.—Not to exceed a hundred.

Q.—The week before the commencement of the session?

A.—Not to exceed one hundred dollars.

Q.—Was your family with you?

A.—No, sir.

Q.—You came alone?

A.—Yes, sir.

Q.—You are a married man, are you?

A.—Yes, sir.

Q.—And have a family?

A.—Yes, sir; two children.

Q.—After this conversation with Mr. Carter, with reference to your getting a vote for his candidate for Sergeant-at-Arms, when next did you see him to have a conversation with him about the ballots?

A.—Well; I disremember. It was a little before or after I was elected. It might have been—I think it was—between the time that it was declared a tie vote between Mr. Robinson and myself, and the time that I was elected.

Q.—What arrangement did you make, if anything, with Mr. Eardley, from Santa Clara?

A.—I agreed to appoint him.

Q.—Is that all the arrangement?

A.—Well, I agreed to give him a portion of the office, but I afterwards went to him and told him that that was contrary to law, and I wanted him to relieve me of it, and he did so.

Q.—What was the consideration that he was to give you for you to give him one half of the office?

A.—Well, he agreed to get me a certain number of votes.

Q.—How many votes did he agree to get you if you would give him one half of the office?

A.—Well, he didn't say.

Q.—Did he name any delegation?

A.—Not particularly.

Q.—Did you make a promise to him to give him one half of the office without you had a certain understanding with him how much strength he would bring to you?

A.—Oh, well, there isn't anything—I don't remember there being anything said except as I detailed. I agreed this way: that up to the time he was appointed I should pay him at least one half of my pay until I got him an appointment.

Q.—Was that all the arrangement that you made with Mr. Eardley?

A.—That was all.

Q.—That was all the understanding you had with him?

A.—That was all.

Q.—No further arrangement was made?

A.—Well, that was the substance of the arrangement. I don't know that there was no other word said.

Q.—Was Mr. Carter cognizant of this arrangement with Mr. Eardley? Did he know of that?

A.—I don't think he did, sir; I don't know that he did.

Q.—Did Mr. Carter promise to vote for you as Enrolling Clerk?

A.—He promised that if I would get some votes for Campbell that he would vote for me for Enrolling Clerk.

Q.—Did you get those votes?

A.—No, sir, I did not. As I said before, I found out that Mr. Hawkins—

Q.—Did Mr. Carter vote for you?

A.—Yes, sir.

Q.—The day before the Senatorial contest closed; it closed, I believe, on the twentieth of December; Governor Booth was elected Senator on the twentieth?

A.—Yes, sir; I believe he was elected on Saturday.

Q.—I call your attention now to the nineteenth—the day before that contest closed. Do you remember going after Mr. Carter down in the lobby or in the hall?

A.—I did, sir.

Q.—What did you say to him?

A.—I said if he was at leisure—when he was at leisure—to drop up and see me at my room.

Q.—He was in the lobby, or in the House proper, when you went for him?

A.—Well, I disremember; he was standing up; I disremember if he was in the lobby or inside of the bar or not.

Q.—How long was that before the Legislature went into joint convention on that day?

A.—It was before the Legislature met.

Q.—Before they met?

A.—Well, they went into session in the morning. I believe they met at that time at eleven o'clock.

Q.—Did he go with you?

A.—I have forgot whether I went up to my room and he followed me, or whether he went with me at the time; but it was very soon after.

Q.—Who was in your room when he arrived there?

A.—There was Mr. Eardley and his son.

Q.—When Mr. Carter came, what did you say to these parties that were there?

A.—I wanted to converse with Mr. Carter, and Mr.—I probably

had better explain this to you now, because I would have to explain it again anyhow—Mr. Eardley, I thought he would think that I was giving away his place, whereas I did not intend to do anything of the sort, and I wanted to have a private conversation with him. Mr. Carter had sought a place for some friend of his in my office.

Mr. Carter—What a liar you are.

Mr. Brown—I would a great deal sooner you had assailed me that way on the street. I don't desire to be talked to in that way. I am very sorry, indeed. You shall certainly have an opportunity of calling me a liar on the street. I must say that I think you are a consummate liar. It is just retaliation, that is all; he said I was a liar.

Mr. Norton—I asked you what you said to these men—the man and boy?

A.—I said I desired a private conversation with Mr. Carter.

Q.—They went away?

A.—Yes, sir; they went away.

Q.—What did you then say after they had gone out?

A.—I said to Mr. Carter that, although I was not—I had no acquaintance with Mr. Booth—that through a great many friends of mine I was induced to do everything I possibly could to secure Mr. Booth's election, that I could honorably. And he said, well, he had no objections to that. Well, I says, says I, "Can't you vote for him?" and he says, "No; I am a Republican; I can't vote for him." I then said that I regretted it very much; that if I had two thousand dollars I would lay it down in gold notes to-day to have him elected United States Senator. He said, well, he was very sorry that he could not vote for him, and thereupon the interview ended. My object in having him come up to my room was this: that if he desired the appointment of a man in my office—in order to have placed him under obligations to me so that I could consistently ask a favor of him—I would have granted it. I would have consented to have appointed his man that he wanted.

Q.—What interest, personally, had you in Governor Booth's election to the United States Senate?

A.—Simply because I thought he was the best man, and that my friends were in that direction.

Q.—Who do you mean when you refer to your friends, particularly?

A.—Well, the majority of the San Francisco delegation.

Q.—Had any of the San Francisco delegation, at any time or place, asked you to use this kind of influence to gain votes for Governor Booth?

A.—No, sir.

Q.—This you did, on your own responsibility?

A.—I did it, voluntarily.

Q.—What man was it that Mr. Carter wanted to get into the Enrolling Clerk's office?

A.—He didn't say.

Q.—How long before this day had he spoken about it to you?

A.—It was immediately before or immediately after my election. I disremember.

Q.—How much money did you have at that time?

A.—At that time?

Q.—The time he was up there in the office?

A.—Well, I don't think I had to exceed ten dollars in my pocket or any place else in Sacramento.

Q.—Mr. Carter says that you did offer him two thousand dollars in gold notes?

A.—Well; that is not so.

Q.—Have you given all the conversation that occurred between you?

A.—That is all, sir—only—yes; I beg your pardon—he asked me to call upon him at his hotel, the International Hotel, and I said probably I would do it. I didn't do it, however.

Q.—Do you remember about the time he was leaving, of your reaching out your hand to him, and saying to him, "This is upon honor now," or words to that effect?

A.—I never said anything of the sort.

Q.—You deny that emphatically?

A.—Emphatically, sir.

Q.—You also deny, as emphatically, offering him any sum of money?

A.—Any sum of money whatever.

Q.—Had you ever spoken to Governor Booth about his chances in that contest?

A.—Mr. Booth would not know me if he met me here in this hall.

Q.—Had you ever conversed with any of his friends about doing this kind of work, or those who were working for Governor Booth?

A.—Never, at any time or at any place.

Q.—What did you mean by insinuating to him that if you had two thousand dollars, you would freely lay it down in gold notes for the election of Governor Booth; did you mean to induce him to think that you would do so if he promised to vote for him?

A.—No, sir; I merely wished to show him my disinterested friendship for a person whom I esteemed very highly, and whom my friends esteemed very highly.

Q.—How did Mr. Carter take the proposition?

A.—Well, he said that he could not vote for Mr. Booth.

Q.—Did he seem indignant at the proposition, or was he unruffled?

A.—Indeed, he didn't; because I didn't see anything that I said that could make him become indignant. If he had renewed his request for to put in this man in the office with me, I would have granted it in order to have placed him under an obligation to me, so that I could consistently ask him, and impress upon him to vote for Booth.

Q.—Had Governor Booth, or any of his friends or agents, given you any money to use in this contest?

A.—Not one—not a ten cent piece; not enough to get a drink of the poorest whisky in the country.

Q.—When Mr. Carter was about leaving, did you not say to him that you would not take his answer as final?

A.—I did not.

Q.—But that you would call at his room that evening, and asked where his room was?

A.—No, sir; he invited me down to his room.

Q.—Did you say to him that you would not take his answer as final?

A.—I did not.

Q.—Did you promise to go to his room?

A.—I told him, if I had time, I would.

Q.—Why did you not go?

A.—Well, I was busy at other matters, and I didn't think it was of sufficient importance to go and talk with a man who said positively he would not vote for Mr. Booth. I didn't want to be wasting my ammunition with him.

Q.—By ammunition did you mean the promise of two thousand dollars?

A.—No, sir; I meant a waste of words. It would be very difficult for me to have given him two thousand dollars, when I lacked about nineteen hundred and ninety dollars of having the amount.

Q.—And didn't know where you could get the balance?

A.—And I didn't know where I could get the balance.

Q.—Was not Mr. Eardley to have the appointment of half the clerks of enrollment in your office?

A.—I think there was something said about it—that he wanted some of the appointments.

Q.—Was not that the agreement made between you and Mr. Eardley when he withdrew from the contest and agreed to throw his strength for you?

A.—Well, I think there was something said about it—about him having two or three appointments.

Q.—Do you deny that?

A.—I don't deny it particularly—I think probably that that is the case.

Q.—That he was to have the appointment of half of the clerks in the enrolling office?

A.—I think he was to have one or two. I think two was the outside.

Q.—You say you afterwards broke that engagement with him?

A.—By his consent; yes, sir.

Q.—Because you thought it was illegal?

A.—Because I thought it was illegal; yes, sir.

Q.—Did you see Mr. Carter after that at any time, after the time he left?

A.—After the time I spoke to him?

Q.—Yes, sir?

A.—Yes, sir; he spoke to me the following morning, and asked me why I didn't come down to his house, and I said I was busy otherwise.

Q.—Didn't he ask you if you had found your man?

A.—He never said anything of the sort.

Mr. Amerman—Mr. Brown, did you, on the Friday morning previous to the election of Senator for the long term, go into the Assembly Chamber at Mr. Carter's desk, and tell Mr. Carter that you had some business with him, and you would like to have him come up in your room, telling him at the time the number of your room—where it was?

A.—Well, Mr. Amerman, I answered that question to Mr. Norton; as a matter of course, I will answer it again: I don't know where I did meet him in the room. He was standing up—I just remember that he was standing up—and I asked him to come to my room, and told him the number of it. He might have been outside of the bar, or he might have been inside.

Q.—Did you and Mr. Carter go up to your room together, or did you go first and he follow?

A.—Well, I am a little under the impression that he went up with me; but then, I am not positive about that. He either went up with me or followed immediately thereafter.

Q.—I understand you to say that when you arrived there, Mr. Eardley and his son were in your room?

A.—Yes, sir.

Q.—And you requested them to leave?

A.—Yes, sir.

Q.—After the conversation was over, and Mr. Carter came out with you, or you came out with Mr. Carter, you say that you have no recollection of shaking hands with him, and making any remark to him?

A.—No; I might have shaken hands with him, but I made no such remark; because there was no secrecy of that character that would require me to make any such remark.

Q.—Are you acquainted with a man named Mott, who was up here as candidate for a clerkship of some kind?

A.—Weil, there are two Motts here. I know one. There was one light haired man; from your county, I believe.

Q.—Yes, sir; that is the man?

A.—I saw him once or twice, but I have no acquaintance with him.

Q.—Did you see him at the time you parted with Mr. Carter, outside of your door?

A.—No, sir; I have not seen him since one time that I had—after it was declared a tie vote between Mr. Robinson and myself, and he came in and intruded himself upon myself and some gentlemen that were talking to me, and I said that I would give him a slap across the face if he didn't go away. I have not seen him since that time.

Q.—Was that previous or subsequent to that time?

A.—I didn't see him. I have got no acquaintance with him, at all.

Q.—Well, at the time you told him you would slap him across the face—

A.—I have not seen him since that time.

Q.—Did you see him when you parted with Mr. Carter, at the head of the stairs?

A.—No, sir; but I should not wonder if he would be conveniently around, to report anything that was wrong about me.

Q.—I don't know that he has reported anything about you in any manner or shape. I have not seen him myself.

Mr. Norton—Did you follow Mr. Carter from the door of your room to the head of the stairs, some twenty or thirty feet?

A.—I did not.

Q.—Did you go outside of your room when he left, at all?

A.—I think I went right to the door-jamb with him.

Q.—And there parted with him?

A.—And there parted with him; just right to the door.

Mr. Coggins—Mr. Brown, you spoke of Mr. Carter's candidate for the clerkship. Did he say anything about that candidate during this interview?

A.—No, sir, he didn't.

Q.—Did he ever say anything about that candidate to you?

A.—When?

Q.—At any time previous to that?

A.—Yes, sir. I have testified to that.

Q.—You were not explicit about that. You spoke with him on one or more occasions before that?

A.—Yes, sir; on one occasion.

Q.—I thought you said some of his friends had been to you?

A.—No, sir.

Q.—You said, I understood, that the next morning he asked you why you didn't come down to the hotel.

A.—Yes, sir.

Q.—Where did that conversation occur?

A.—As I was passing him he volunteered to address me.

Q.—Here, in the building?

A.—Right at his seat. He asked me why I didn't come down, and I said I was otherwise engaged.

Mr. Norton—It seems a little singular to me, Mr. Brown, that you should be so devoted to a man you were unacquainted with, and be ready to go so far to aid him. Please explain to the committee what incentive, what motive you had in thus acting. Governor Booth is an entire stranger to you, personally?

A.—Yes, sir.

Q.—None of the San Francisco members have taken such a deep interest in it as you did. Please explain to the committee why it was.

A.—To answer that, I will ask you a question: Have you never devoted your time and very superior abilities to the success of a man whom you did not personally—

Q.—That is not an answer to the question.

A.—That is the only answer I can give. I thought he was the best man and I think you have made speeches often in Placer County for men you have never seen. I did this because I thought he was the best man; because all our San Francisco delegation were going for him, many of whom were my warm personal friends.

Q.—Had any of them ever said one word to you, either the San Francisco delegation or the Sacramento delegation, or members of the Legislature from other parts of the State, about your aiding them in this contest? Had any man ever asked you to do this thing?

A.—Why, I have been repeatedly importuned by the friends of Booth to do the best I could. I can't remember every one who did it.

Q.—Have you been by any one?

A.—Yes, sir.

Q.—Name one.

A.—Mr. Cowdery spoke as a friend of Booth's, and told me I must do everything I possibly could for him.

Q.—That is one man; who else?

A.—I have conversed with Mr. Estee about it.

Q.—Did Mr. Estee ask you also to do the very best you could for Governor Booth?

A.—Well, he may not have used those very words, exactly. I have known Mr. Cowdery since I have been a boy, and Mr. Cowdery has always been my friend, and he asked me to do what I could for Mr. Booth. It was very little I could do, as I had no vote.

Q.—Yes; did you go to any other person, any other member of either house, except Mr. Carter?

A.—Oh, yes; I spoke to Mr. Pishon, and asked him to support Mr. Booth. I spoke to several members; I disremember all the men that I spoke to.

Q.—Did you go to any other member of either house, and ask them to come to your room to have a private conversation with you, with the same motive?

A.—With the same motive?

Q.—Yes, sir?

A.—What motive is that?

Q.—To get the men to go for Mr. Booth?

A.—Well, I didn't know but what it was the two thousand dollar

motive you were talking about. I don't know; I disremember; I might have asked men to come there.

Q.—If you had asked them, you would remember it, wouldn't you; and if they came?

A.—I don't think any man ever came to my room at my solicitation.

Q.—Except Mr. Carter?

A.—Except Mr. Carter.

Q.—Why was it, sir, that you insisted upon Mr. Eardley and his son leaving, if you were only there to talk with him in this casual way about Mr. Booth's success?

A.—Well, I did not know but what he might renew his request for this appointment, and if he did, I was prepared to place myself in a position to make him a promise to give him the appointment.

Q.—What led you to believe that he would renew his request, when he had not come to you, but you had gone and sought an interview with him?

A.—Well, I did not know but what he might; it was just a matter of chance; I did not know but what he might.

Q.—It appears you had solicited him to leave his place in the House and go to your room?

A.—Yes, sir.

Q.—That did not look much like he was asking you to appoint a man in your office that he would name?

A.—No; he did not do it at that time. Outside of those considerations, I was anxious to talk with him and use my utmost endeavors to get him to vote for Mr. Booth.

Q.—Then your sole idea was, in getting him up there——

A.—Was to have a private conversation with him and ask him if he would go for Booth.

Q.—What was the necessity of any privacy or secrecy in this open matter—this open remark that you made to him, you could say that to him anywhere?

A.—Well, I expect, probably, that I was induced to do it because our conversation might be interrupted by persons standing in the immediate vicinity, and on such things as earnest solicitation to go for a person, I think I can do it a little better in private than with every person listening to me.

Q.—You had no fear of Eardley and his boy interrupting you; he is a quiet gentleman, is he not.

A.—Well, yes; he would never bite any one.

Q.—You was not afraid that he would interrupt you, even if he remained in the room?

A.—No, sir.

Q.—Then why did you desire him to leave, if that was all?

A.—No other reason than what I have said. I thought I could converse more freely with him, and in the event of him renewing a request to have an appointment in my office, I could more readily talk with him in the event of him saying——. I reasoned in this way: in the event of him saying, "Well, I have made a request of you——." This is the way I reasoned when I brought him up there: that in the event he would say, "Well, I have made a request of you; now you make a request of me, without granting mine;" if he would say that, I would in all probability have said, "Well, I am prepared to grant your request."

Q.—You would give a clerkship in your office for a vote for Governor Booth?

A.—Well, I don't think it is putting it exactly on that ground.

Q.—On what ground could you put it, Mr. Brown, and do justice to yourself?

A.—I don't estimate it would be an absolute trade. It would be putting me in a position to be obligated to him, and him in a position to ask a favor from me.

Q.—Your supposed case would make an absolute trade, according to my judgment.

A.—Well, I don't think so.

Q.—Supposing that you induced him to come up in the office, so he would renew his request, and you say: Here, you ask me to do what you desire and I will grant it. Wouldn't that be an absolute trade?

A.—Well, you—

Q.—He promising to vote for Governor Booth, and you promising to put a man he should name in the office?

A.—I differ with you, because I might accede to his request and he not accede to mine.

Q.—You were prepared to grant it?

A.—I was prepared to accede to his request, and if I then could not induce him to go for Mr. Booth, and if he did not accede, I would have to fulfill mine anyhow.

Q.—What brought gold notes into your mind?

A.—I said if had two thousand dollars, I would pay it down in gold notes to insure Governor Booth's election.

Q.—Have you been in the habit of handling gold notes or gold coin?

A.—Well, no; but the last few notes I have handled I thought they looked so much better than twenty-dollar pieces that I wanted to show my enthusiasm in the cause. They are so much prettier than gold.

Q.—You thought that would reach him, if anything would?

A.—Yes, sir.

Q.—No one had offered you any gold notes to use?

A.—Not a cent in the world. I am just dead cold positive on that, and that I had not ten dollars in the world of my own.

Mr. Coggins—Did you have possession of any money belonging to anybody else?

A.—I had possession of no money, either belonging to myself or anybody else, at that time.

Q.—Either here or in San Francisco?

A.—Either here or in San Francisco.

Mr. Norton—Gold notes are a good deal handier to carry than twenty dollar pieces?

A.—Yes, sir; yes, sir, though I don't find much difficulty in carrying the few twenties that I am able to get hold of; I didn't have much of either.

Mr. Coggins—Did you say to Mr. Carter, in that interview, that he would not be asked to vote for Mr. Booth that day?

A.—Oh, nothing of the sort.

TESTIMONY OF J. C. CARTER—(RECALLED.)

J. C. CARTER, recalled:

Mr. Amerman—Mr. Carter, will you be kind enough to state to the committee, in brief, just exactly what transpired between you and Mr. Brown, from the time that he came into the Assembly Chamber, and asked you to come to his room?

Answer.—Well, sir, I was sitting in my seat in the Assembly Chamber, when Mr. Brown came in; I remember that distinctly, and reading a newspaper. He stood just between my seat and yours, and, if I mistake not, spoke to you in the first place, and then said "good morning" to me, and I looked up and said "good morning," and, having only a casual acquaintance with him, went on reading my newspaper; and then he stooped down and asked me to come up to his room, No. 72, as soon as the roll was called. It was then within a few minutes of eleven o'clock; he said he had a matter of business to talk about to me; he took a step off, and then returned and asked me not to forget the number (72); I told him I would not, and as soon as I answered to my name I went up to his room; he was sitting at the table; Mr. Eardley and the boy were present; I asked him what he wanted with me; he spoke to Mr. Eardley and asked him to leave the room, as he had a matter of private business with me; Mr. Eardley said, "certainly," and got up to leave; and the boy was remaining, and he asked him to go also, and he went out; and Mr. Brown then gathered a couple of chairs and took them to the back part of the room; there was a table in the back part of the room, and set them down there, and asked me if nothing could induce me to go for Mr. Booth; I told him no; he asked me if there was nothing that could induce me to go for Mr. Booth, and I told him no, that I was a Republican, and sent there by Republicans to the Assembly, and I could not go for Mr. Booth. "Now," says he, "I am deeply interested in the election of Mr. Booth, and if you will vote for Mr. Booth, and I will not ask you to do it to-day, but some other time when you are called upon, I will place two thousand dollars in gold notes in your hands, and nobody will ever know anything about it. The most of your delegation are going for Mr. Booth, and you will stand well with them if you do it." I told him that there was no use in talking to me; I was a Republican, elected and sent there by Republicans, and I could not do it. He stood up and said, "I am not going to take this for a final answer. Where do you room?" I told him I roomed at the International Hotel; he then asked me when I would be there; I told him that I was usually in between five and six o'clock; he said he would call and see me; I told him he might do it, as he wished to; it would do him no good; he followed me to the head of the stairs, and said: "Mr. Carter, now remember, this is on honor between gentlemen." Before he had offered this two thousand dollars in gold notes, he had said about the same thing to me, that this was on honor. But, so far as asking him for anybody else, about this place, for anything, for a friend of mine, or for myself, I have never done it to him or anybody else.

Q.—Mr. Carter, did you have any friend that you desired to get a position for in the Enrolling Clerk's office?

A.—No, sir.

Q.—Did you ever ask Mr. Brown for the position?

A.—And that is what astonished me; when that came out when he was testifying. I was so surprised.

Mr. Norton—The substance of your testimony, I understand, Mr. Carter, is just about the same as was given last night?

A.—Yes, sir; I had no feeling in this matter at all, and as I told you last night, I very much objected to getting into this matter, and I only tell exactly what occurred; yes, or no.

Q.—He did emphatically offer you money if you would vote at some day he would name?

A.—Yes, sir.

Q.—I believe you said that he said he didn't care to have you vote that day?

A.—He said I would not be called on to vote that day.

Q.—But the next day, as I understood your testimony; the next day?

A.—No, I don't remember that he said the next day. What I remember distinctly is, that he said I should not be called on to vote for Mr. Booth that day.

Q.—But when you did, if the arrangement was completed, that he would put two thousand dollars in gold notes in your hand?

A.—Yes, sir. I understand that he was to place two thousand dollars in gold notes in my hand, if I consented to do it. The money was to be paid immediately. He said nobody should ever know anything about it. It was just to be between him and me, and I would stand well with my people, as the most of my people were going for Mr. Booth.

Q.—You have heard Mr. Brown's testimony?

A.—Yes, sir.

Q.—From his testimony to-night, as given before this committee, do you believe that Governor Booth, or any of his friends, knew anything about this proposition that he made to you?

A.—I can't say that I have any reason to believe anything of the kind.

Q.—You heard the man's statement?

A.—Yes, sir.

Q.—And those statements must be reckless, if you didn't go to him to get the position for a friend of yours in that office?

A.—Yes, sir.

Q.—It never suggested itself to you that he would so state?

A.—No, sir.

Q.—And that is what astonishes you?

A.—Yes, sir.

Q.—Then you must lack entire confidence in the man?

A.—Yes, sir; I certainly do.

Q.—And in regard to this Campbell affair?

A.—I remember that it was he who came to me. Mr. Campbell introduced him to me, and Mr. Brown told me there was a Senator he could get, who had told him he could use his name to forward his object in the Assembly Chamber, and he thought he could get two more; and Mr. Campbell, as I understood it, would need two or three votes to be elected Sergeant-at-Arms of the Senate. I told him if he could be of any assistance to my friend, Mr. Campbell, that I would give him my support. I afterwards learned through Mr. Campbell that he could be of no assistance to him, and I went to him and told him that I didn't consider myself bound by the pledge I had given him. He said he thought it was pretty hard, after doing what he could—trying to do all he could do—for Mr. Campbell, to lose my support. I told him I would not say I would not go for him, but I would not consider myself bound.

Mr. Curtis—That was when Mr. Brown was going for the position of Enrolling Clerk?

A.—Yes, sir; Mr. Brown was to get Senators to vote for Mr. Campbell, and I was to vote for Mr. Brown.

Q.—Did you vote for Mr. Brown?

A.—Yes, sir; all the way through. I didn't know Mr. Brown. I was introduced to his opponent, Mr. Eardley.

Q.—What do you know about his arrangement with Eardley to divide up the office?

A.—I never heard of it until last night.

Q.—And you say positively that he followed you close to the head of the stairs?

A.—Yes, sir; and I know a man that stood close to the head of the stairs, but whether he will remember the matter, I don't know. I have disclosed to a member of the committee the name of the party.

Q.—You are willing to disclose the name whenever the committee send for you and desire it?

A.—Yes, sir; I am anxious to do it, because I want to see if that man will remember the remark; that he followed me to the head of the stairs and said, "this is on honor between gentlemen."

Q.—You have nothing to add to your testimony of last night?

A.—No, sir; nothing.

Q.—You saw no money?

A.—No, sir.

Q.—And the whole matter is just as you have stated?

A.—It is just as I have stated. I believe just as I have said.

Q.—It does not change your notions about it at all since you have heard his testimony?

A.—Not a particle.

Mr. Curtis—And you are positive that there was no negotiations between you and him?

A.—Quite. As I said before, I never dreamed of it; I never had anybody here that I wanted a position for.

Mr. Norton—You had no friend that you were seeking a position for?

A.—No, sir; I was not interested in any friend that I wanted a position for. I am a stranger here, and don't know many.

Q.—And none came with you from your county?

A.—No, sir; this man, Mr. Campbell, went home to Marysville before the election was decided. He gave up the contest and went home, satisfied that he was beaten.

TESTIMONY OF MR. MORGAN.

Mr. MORGAN, called, sworn, and examined:

Mr. Summers—Mr. Morgan, I would state that the object of this investigation is in regard to the alleged frauds and corruptions charged against certain undesignated members of the present Legislature in regard to the late Senatorial election. If you know anything about it, will you state it to the committee?

Answer.—Yes, sir.

Mr. Norton—Mr. Morgan, you were here during the contest?

A.—Yes, sir.

Q.—One of the members of the House?

A.—I think so.

Q.—During the contest for Senator for the long term, at the late election, did any person or persons meet you with any proposition to vote for Governor Booth, or any other candidate?

A.—They didn't, to my recollection.

Q.—Would you recollect it, if such a thing had occurred?

A.—I should be very apt to.

Q.—Well, could you have forgotten?

A.—Well, I don't think I would.

Q.—Don't you know yourself whether you would remember an occurrence of that kind, so recent?

A.—I said once, that nobody had approached me; I had no recollection of anybody approaching me with that view.

Q.—Well, it is important to know, now, if you would recollect it if it had occurred?

A.—Well, I don't seem to recollect it, that anybody approached me. I am aware that, during the contest, all the members, more or less, were approached—that is, legitimately. I received several letters, several dispatches, some encouraging me to vote for Booth, and some to maintain the regular ticket; but I was not approached, either by letter or verbally, with any improper inducement.

Q.—During the contest, or since, have you heard of anybody that was offered money, gold notes, bank checks, or anything of value, to vote for Governor Booth, or for any other man, for United States Senator?

A.—I have not.

Q.—No such offer, you say, was made to you?

A.—No, sir.

Q.—No man approached you, talking about that, did they?

A.—No, sir, not that I recollect of.

Q.—Well, if a man had approached you and offered you one thousand dollars for your vote, or two thousand dollars for your vote, in gold notes, wouldn't you recollect it?

A.—I would have been very apt to.

Q.—Well, could you have forgotten it.

A.—I should not suppose I would.

Q.—Well, don't you know whether you would remember it or not?

A.—I said distinctly——

Q.—That you don't recollect it?

A.—That I don't know that anybody approached me in a mercenary point of view.

Q.—You say you don't know?

A.—I know they did not.

Q.—That is an answer; that is what I was working for. You say now nobody approached you. Did they say anything to you about it?

A.—I don't recollect that they did.

Q.—Who approached you during that contest with these letters—by letter or by telegraph? Who had personal interviews with you, urging you to vote for Governor Booth, and where were those interviews held?

A.—There was a young fellow by the name of McGowan, that was very anxious for me to vote for Governor Booth.

Q.—Is he Clerk for the Judiciary Committee?

A.—Yes, sir, I think he is; and he approached me several times, ask

ing me to support Governor Booth, and used all sorts of arguments legitimately, but nothing by way of inducement.

Q.—No promise of reward, place, or position?

A.—No, sir.

Q.—Or money, or anything of value offered you?

A.—No, sir.

Q.—Where did he hold his interviews with you?

A.—I saw him several times—took dinner with him at the French House. He met me at the Golden Eagle once or twice; came to my desk in the Assembly once or twice, and was very anxious.

Q.—Where were you rooming at that time?

A.—At the Golden Eagle.

Q.—Did he come to your room at the Golden Eagle?

A.—I don't remember that he did.

Q.—How did you come to go and take dinner with him; upon his invitation?

A.—Upon his invitation; yes, sir.

Q.—How many times did that occur?

A.—Twice.

Q.—The subject conversed about each time was Governor Booth's election?

A.—Governor Booth's election.

Q.—At both interviews?

A.—Both interviews.

Q.—He held out no promise to you, you say?

A.—Not the slightest.

Q.—Offered no inducement?

A.—Nothing of the kind.

Q.—Who else did you converse with about it—that is, who urged you in this manner?

A.—Well, Senator Turner, from our own county, thought that I had better vote for Mr. Booth.

Q.—Did he offer you any inducement—hold out any inducement?

A.—Nothing, any more than he thought I would ingratiate myself in favor amongst my constituents by so doing.

Q.—Urged as a reason that your constituents were favorable to Governor Booth?

A.—Some of them.

Q.—Some, or a majority?

A.—Well, I don't know.

Q.—He could not urge very plausibly that the minority was in favor of Governor Booth?

A.—Minorities rule sometimes.

Q.—Well, could he make that as a basis why you should support him, in order to ingratiate yourself with the minority?

A.—To become popular—I suppose he might.

Q.—You suppose he might?

A.—Yes, sir.

Q.—You would not like to become popular with the minority, I suppose, merely; that is what you are seeking?

A.—Yes, sir; I suppose, to be popular with the majority, in all events would be best, and to be popular with the minority would do no hurt.

Q.—Are Mr. McGowan and Mr. Turner the only parties that urged you to vote for Governor Booth?

A.—I was trying to think. I guess perhaps there was a hundred spoke to me.

Q.—There was a great deal of pressure brought to bear upon you?

A.—Yes, sir; considerable.

Q.—At any time during the contest, either there or here, was any inducement such as I have named, to wit: money, either gold or gold notes, bank checks, drafts, or anything of value, offered to you to vote for Governor Booth?

A.—No, sir.

Q.—Or for any other Senator?

A.—No, sir.

Q.—That you are positive about?

A.—I am very positive.

Mr. Curtis—How long were you here, Mr. Morgan, before the House organized?

A.—A week or ten days.

Q.—Did you make many acquaintances here during that time?

A.—Not many.

Q.—About how many new acquaintances that you didn't know before?

A.—Well, I declare I could not say; I made somewhere from one to one hundred.

Q.—Did you get acquainted with Tom Nosler during that time?

A.—No, sir.

Q.—Do you know him now?

A.—No, sir.

Q.—Have you ever met him?

A.—Not to know him.

Q.—In those letters you have received, Mr. Morgan, was there any promise or any inducement contained in those letters, aside from mere friendship, political friendship, for the candidate for the United States Senate, any other reasons held out to you why you should vote for him?

A.—No, sir.

Q.—Nothing of the sort?

A.—No, sir.

Q.—Did you ever receive any threatening letters?

A.—I received one letter whose tone I thought was rather threatening.

Q.—Well, what was the threat?

A.—I didn't pay much attention to the letter. I just ran it over very carelessly, and, by the way, I gave it to this same McGowan. It was placed in my hands at the time he was talking to me, and I just glanced over it and I gave it to him, and he requested me to let him take that letter, that he wanted to see it, and I had no objection. What he done with it I don't know. He said he took it to Governor Booth. I think he said at the time he wanted to show it to the Governor.

Q.—How many letters of that kind did you receive, Mr. Morgan.

A.—Only one.

Q.—And it was a threatening letter?

A.—Rather so.

Q.—And you gave it a casual glance; just ran over it?

A.—Yes, sir.

Q.—Are you in the habit of receiving threatening letters?

A.—No, sir.

Q.—Then why, when you received a threatening letter, did you give it only a casual glance and pass it over to somebody else.

A.—Because he was standing by me, and I expected him to read it and hand it back, and he did hand it back just as I was getting in the coach with Governor —, and I pulled it out of my pocket, and he said let me have it, and he took it and has had it ever since.

Q.—Did you feel no anxiety concerning your personal safety to cause you to look out?

A.—I don't scare very easy.

Q.—What was the character of the letter?

A.—I could not tell you the contents, or much of the contents.

Q.—You received a threatening letter and don't remember what it contained?

A.—I believe it said, "Woe be to the man that didn't vote for Mr. Booth."

Q.—It reminded you of your duty—what might befall you hereafter; but was there any threat in it?

A.—No, sir; I think not.

Q.—Do you remember the exact language of that letter?

A.—No, sir.

Q.—Would you if you heard it.

A.—I could not say.

Q.—Was there anything said about your scalp?

A.—I believe the word scalp was not in the letter. I don't recollect positively; it may be, but if it was it has passed my memory.

Q.—Was anything said about your head?

A.—I don't know, but I guess not.

Q.—Anything about the top of your head?

A.—No, sir.

Q.—Did it threaten anything about your head?

A.—I guess my head was all right.

Q.—If it didn't say anything about your head, what was it about?

A.—It was rather foreshadowing a man's political aspirations. I didn't have any, and consequently didn't pay much attention to it.

Q.—Threatening your aspirations, politically?

A.—Yes, sir.

Q.—How many letters of that kind did you receive?

A.—Only one.

Q.—Where from?

A.—From San Francisco.

Q.—How many letters did you receive from San Francisco as to Governor Booth, or any other candidate?

A.—Only one.

Q.—Mr. Morgan, do you know, or did you know, of an agreement by which fifty thousand dollars was to be paid for four votes?

A.—No, sir.

Q.—Well, if you didn't know anything about it of your own knowledge, did you hear anything about it?

A.—It seems to me I have a faint recollection of a rumor that was current that there was fifty thousand dollars to be expended on this election; but I have no authority. Where it came from, I could not say—just simply bar-room gossip.

Q.—You heard that as a rumor?

A.—Yes, sir.

Q.—Do you remember where you first heard it, and who it was that first spoke of it?

A.—No, sir.

Q.—You cannot remember?

A.—No, sir.

Q.—Well, didn't that attract your attention somewhat?

A.—No, sir.

Q.—That there was fifty thousand dollars to be used in the election?

A.—No, sir.

Q.—Didn't you think it a little strange that fifty thousand dollars was to be used to elect a man to the United States Senate?

A.—Nothing very strange, if a man has any political history in his mind; knowing that such rumors have been attached to all the Senatorial contests in this State, with the exception of one or two, and consequently I didn't pay any attention to it.

Q.—And, therefore, when the people were so excited and determined that it should not exist here, did you give that thing no heed—pay no attention to it?

A.—Not particularly; for it might have been just idle words.

Q.—It may have been, but you was directly interested in it from the fact that you were a legislator.

A.—Certainly.

Q.—And if fifty thousand dollars was to be used, it was your duty to look out and see if bribery was to be used.

A.—Well.

Q.—And you paid no attention to that rumor?

A.—No, sir.

Q.—Could not state where it was?

A.—No, sir; it might have been in the Capitol or the hotel.

Q.—How long before the Senator was elected; how many days?

A.—I could not tell you anything about it.

Q.—Did the rumor state how many votes were needed at that time?

A.—No, sir.

Q.—What was the rumor you heard, Mr. Morgan?

A.—Well, I have an indistinct recollection that the rumor was that there was fifty thousand dollars to be used in this election for the purchase of votes. This is my own language—votes for Booth for the United States Senate.

Q.—You heard that?

A.—Yes, sir.

Q.—Now, when you first heard that, didn't it excite your curiosity?

A.—It might have come right from one of the Houses, or the Senators, I don't know.

Q.—Did you hear it talked of afterwards?

A.—No, sir.

Q.—Never heard anything more of that?

A.—No, sir.

Q.—I believe you was at roll call, in the joint convention, Mr. Morgan?

A.—Yes, sir.

Q.—And you voted?

A.—Yes, sir.

Q.—Just before you went into joint convention, or before the Senators entered the Assembly chamber, did you have a conversation with any member of the House in reference to your vote—how you were going to vote?

A.—Well, I declare, I can't say now whether I did or not. It seems to me I did at one time; whether on the final vote or not, I can't say.

Q.—The day before the final vote, did you have a conversation with any member of the House?

A.—I don't recollect that I did; I might, with several; I don't know.

Q.—Did you have a conversation with a member of the House, on the day of the election for the long term, just before the Senators came into the hall—the Assembly hall?

A.—I don't know that I did, with any particular one.

Q.—How did you vote in the election, Mr. Morgan?

A.—Voted a straight ticket.

Q.—Which one of them; I would like to know?

A.—The Republican.

Q.—Did you state to anybody, Mr. Morgan, that you would vote one time more for the straight man, or for the straight ticket, or for the nominee of your party, but that after that you were not controlled by party; that the people seemed to be in favor of somebody else?

A.—I may have said so; I don't deny it, but I have no recollection of it; I am rather inclined to think I didn't.

Q.—To a member who occupies a seat within ten feet of you?

A.—Yes, sir.

Q.—Did such a conversation as that take place?

A.—I have no recollection of any conversation of that kind.

Q.—Did you ever hear any member of the House say, that if fifty thousand dollars was to be used, he intended to have his portion of it; if so, who was it?

A.—I never heard anybody make such remark.

Q.—You never heard any member say that?

A.—No, sir.

Q.—Did you ever hear anybody say, if not addressed to you, in your presence, that there was fifty thousand dollars could be used, and any man who would not get his portion of it, was a d—d fool?

A.—I have no recollection of it.

Q.—Now, wouldn't you remember that, if it had occurred?

A.—I think so.

Q.—Well, did it occur?

A.—I have no recollection of it.

Q.—You think you don't recollect anything of the kind?

A.—No, sir.

Q.—And the fifty thousand dollars you have no recollection of—except you think it was a rumor?

A.—Yes, sir.

Mr. Coggins—Was there any signature attached to that threatening letter?

A.—Yes, sir; there was.

Q.—Do you remember what the signature was?

A.—It was Merritt—I remember the signature.

Q.—Was that any of your acquaintances?

A.—Yes, sir.

Q.—It was a genuine letter and signature?

A.—Yes, sir; It was in his handwriting.

Mr. Curtis—Mr. Morgan, that is the letter, is it? [Handing witness letter.]

A.—Yes, sir; I think it is.

Mr. Norton—Where has it been, Mr. Morgan, since?

A.—With Mr. Bullock.

SAN FRANCISCO, December 15th, 1873.

HON. WILLIAM MORGAN:

DEAR SIR: From the latest news from the Capital, the election for United States Senator is waxing warm; I wish to write you a few lines concerning the coming event. The sentiment of the people—the *working classes*—is in favor of Booth *strongly*. Of course, you will have to listen to many that are opposed to Booth, but heed them not, but bear this in mind: Woe be to any member of the House or Senate, who does not give his entire support to Booth. He will be *marked* at any future election. The People's and Workingmen's Party *must* and *will be* the dominant party—let Stanford and Carr do their damndest. Hereafter, you will aspire to a higher position than you now hold; but, mark my words, if you do not do everything in your power for Booth, *you* will be damned for *any* position. Use every means to elect Booth. We, the people, want him for United States Senator, and must have him. Let me hear from you soon, and give me any items of interest.

Yours, very truly,

STEPHEN F. MERRITT.

Direct to S. F. Merritt, 111 Lienesdorff street, San Francisco.

TESTIMONY OF W. S. M. WRIGHT.

W. S. M. WRIGHT, called, sworn, and examined:

Mr. Summers—Mr. Wright, I will state that the object of this investigation is to investigate the charges of alleged fraud and corruption, made against the honor and honesty of undesignated members of the present Legislature, in regard to the late Senatorial contest; if you know anything in regard to the matter, you will please state it?

Answer—Any particular member, did I understand you to say?

Q.—Any undesignated member?

A.—I don't know that I know of anybody having been offered anything to vote either one way or the other. There was a gentleman stated to me, during the time the election was going on, that he was here for the purpose of procuring votes, but he was not a member.

Mr. Norton—What time was that, Mr. Wright; how long before the Senator was elected?

A.—It was either the first vote after the joint convention, or the second; I am not positive which it was.

Q.—Where did he meet you and tell you that?

A.—He came into my room, after I had gone to bed.

Q.—Where were you then stopping?

A.—I was stopping at Mrs. Lull's.

Q.—How did he find out where your room was?

A.—Oh, he had been up here before that.

Q.—You were acquainted with him?

A.—Yes, sir.

Q.—Where was the man from?

A.—San Francisco.

Q.—Had he said anything to you about the Senatorial election before this night?

A.—He had a talk with me before that.

Q.—Do you remember whether you had or not?

A.—Oh, yes; I and he had a talk, probably a week previously.

Q.—About what time was it that he came into your room?

A.—Oh, I suppose nine or ten o'clock—just after the train came up.

Q.—You had not yet gone to bed?

A.—I was in bed.

Q.—Just tell the committee what he did say, according to your recollection.

A.—I think, when he came in, I laughed at him and wanted to know what he was after—that is my recollection now—and he said he had been called here. Said I, I reckon you are looking after votes. He asked me then, after the conversation, after awhile—no, I am a little fast. I told him I believed votes had got to be in pretty good demand. He said that he supposed they were. I told him I understood, night before that, there had been three thousand dollars offered for a vote, and I don't recollect what answer he made to that, but during the conversation he asked me. He stated that he was here to help some poor men, and he asked me if I thought it would be safe to approach a certain gentleman, and I told him I thought not; that I thought I would rather it would be him than me.

Q.—What did he say to you further?

A.—Well, we had considerable conversation, but he made no proposition. He didn't come to me to make a proposition. I didn't suppose he did.

Q.—What was the man's name?

A.—His name was McNamara.

Q.—Was you acquainted with him before you came here this session?

A.—Oh, yes, some time.

Q.—You got acquainted with him in the city?

A.—Yes, sir.

Q.—You say you told him that you heard somebody was offered three thousand dollars for a vote?

A.—Yes, sir; I was told that the night before.

Q.—Who told you that?

A.—I think Mr. Dixon told me he had heard there was an offer of about that amount made. He didn't say he knew it, but he had heard it.

Q.—Who was the man that was offered three thousand dollars?

A.—I don't know.

Q.—He didn't tell you?

A.—I didn't ask him.

Q.—Did you ever learn?

A.—No, sir. I never inquired anything further about it.

Q.—Did Mr. Dixon speak to you about something of his own knowledge, or what he had learned?

A.—He had been so informed. He didn't speak from his own knowledge.

Q.—What did this man say about the price?

A.—He said, he supposed in case of emergency, he didn't think that would be high.

Q.—If the contest became close?

A.—If the case would justify it, he thought it wouldn't be high.

Q.—Was he talking to you in a spirit of candor and fairness, as though broaching a business matter?

A.—I was drawing him out and laughing.

Q.—Pretty shrewd sort of a man, is he?

A.—Oh, yes, sir.

Q.—Was he not there rather for the purpose of drawing you out?

A.—No, for we had talked the matter over before.

Q.—Yes, but it appears he had to give you some information concerning another man?

A.—There was a member, he said he supposed he was rather in needy circumstances. The words he used were, he was a poor man, and he wanted to know if he could approach him.

Q.—What member is that?

A.—Well, I don't know whether that man is in the case or not.

Q.—The question is in the case?

A.—Well, it was Mr. Northcutt.

Q.—Mr. Northup has already been in the case. He said Mr. Northcutt was in needy circumstances?

A.—Well, he supposed he was. He understood he was not a man in very wealthy circumstances.

Q.—You was an avowed opponent of Governor Booth's, was you not?

A.—Of course. I didn't vote for him.

Q.—And he was talking with you, and wanted to get votes for Governor Booth?

A.—Yes, sir, I understood so.

Q.—And working in his interest?

A.—Yes, sir.

Q.—Why should he come to you, you being an opponent? If he had conversations with you, in which he found out that he could not change you, why should he lay his hand bare to you in that form?

A.—That would be a question that he could answer better than I could. I suppose, because we were pretty well acquainted.

Q.—When did you first disclose this fact to anybody at all?

A.—The next morning, I guess.

Q.—Who did you tell of it?

A.—I told Mr. Dixon, I think.

Q.—Did you ever talk to Mr. Northcutt about it?

A.—I did not for several days.

Q.—Until after the contest was over?

A.—I did not.

Q.—You went on your way, and let the contest go on?

A.—I don't know that my opinion is in the case.

Q.—When you did talk with him, what did he say?

A.—He said, it is very well you didn't.

Q.—The man didn't approach him at all?

A.—I advised him not to. I told him I thought it wouldn't be necessary.

Q.—Did he say that he had anything of value, money, check, or draft, to offer to him, Mr. Northcutt, or to you, for a vote?

A.—Well, I have stated all that he said.

Q.—Well, please answer that question?

A.—No, sir; he didn't say that he had any money.

Q.—Or anything of value?

A.—That thing was not spoken of, to my recollection. I told him, at the same time, that I understood Jones was in San Francisco, and, in fact, I heard he was here.

Mr. Norton—So had I.

A.—I told him I didn't know him, but it was reported that Jones was in San Francisco, and it was reported that he was here, and I understood that he was a particular friend of Governor Booth's, and, if he took a notion, it was no knowing what he might do.

Q.—Jones did not come here at all?

A.—Not that I know of.

Q.—This is mere rumor?

A.—It was just rumor. Yes, sir.

Q.—That is all you know about it, is it, Mr. Wright? If there is any other fact that you know, please state it?

A.—Well, that is not all I know, from his statements, altogether. I don't know of his having paid any money, or agreed to pay any money; but he told me the morning afterwards, or the second morning afterwards, that he had a man that was going for Governor Booth.

Q.—Did he say how he got him to go for Governor Booth?

A.—I don't think he did, just at that time.

Q.—Did he at any time after that?

A.—After that, just after the Governor was elected, in the hotel, there he said to me, when I met him, he said: My man was a little too slow. He said, such things will happen. He said, sometimes men lost a good thing by being a little too slow. He told me the next ballot his man was going for the Governor; but he said he missed it, for the Governor is elected without him.

Q.—Did he tell you what he was to give him?

A.—No, sir; he didn't say he was to give him anything; but he said men lost a good thing, sometimes, by being too slow.

Q.—Didn't name what the good thing was?

A.—No, sir.

Q.—He seemed to have made a confidante of you in all these transactions?

A.—Yes, sir; he seemed to select me for a confidante.

Q.—You being on the other side of the house, too?

A.—Yes, sir.

Mr. Curtis—He said his business up here was to get votes?

A.—Yes, sir.

Q.—And also said he came up to help poor men?

A.—That was the way he talked when he spoke of this particular man; and he said, further, that he would help some poor man if it would get votes.

Q.—Did he say how he would help him?

A.—That is all the words he used.

Q.—He would help some poor man if he would get votes?

A.—He didn't use the word money.

Q.—That is the general way of helping poor men?

A.—No; he is pretty smart; he was not going to put his foot in it if he could help it.

Q.—He was not going to put his foot in it that way?

A.—No, sir.

Q.—And in the conversation with you, Mr. Wright, didn't he state that some man had been in time and had not lost a good thing. Did he lead you to understand that any man had procured this good thing?

A.—He told me another gentleman was going for Governor Booth; but he didn't speak as if it was by his influence in any way.

Mr. Coggins—What do you say his name was, Mr. Wright?

A.—Mr. McNamara.

Q.—What is his business?

A.—He has followed teaching school for some time.

Q.—What?

A.—Teaching school.

Q.—In San Francisco?

A.—Yes, sir.

Q.—Had you known him before? How long had you known him?

A.—Well, the first time I saw him was about eighteen hundred and sixty-six; I didn't make his acquaintance then; I have been tolerably well acquainted with him for the last few years.

Q.—Is he in a position to have money of his own to spend freely?

A.—Well, I did not think so; I do not think he has a great deal of money ahead.

Q.—Did he speak as if representing anybody particularly—as if he came up at the instance of any person?

A.—I think probably he had been requested to come up here; that was my understanding.

Q.—Did he say anything of that kind—that he had been?

A.—Yes, sir; he said he had been summoned to come immediately here.

Q.—Did he say who by?

A.—I do not think he said who by, although I understood by whom—not by anything he said, though.

Q.—Who had he been summoned by?

A.—He showed me a dispatch.

Q.—What were the contents of the dispatch?

A.—The contents, I think—well, it was a bad light—as well as I could read it, was to come immediately.

Q.—Who was it from?

A.—The name to it was Hart.

Q.—Any first name.

A.—There was no first name to it.

Q.—Was there any one present in the room when this conversation took place, except you two?

A.—My son was in there.

Mr. Norton—Mr. Wright, did he tell you that he was a friend of Governor Booth's?

A.—Yes, sir; oh, yes, sir; he said he was a friend, and felt very much interested in the election.

Q.—Did he hold out any inducement to you at any time, except to use argument with you, to vote for Governor Booth?

A.—No, sir.

Q.—And came to you and laid these plans all before you, knowing you were going to vote the straight Democratic ticket?

A.—I told him previously I was going to vote the straight ticket; but also, previously to the election, I told him I had no objection to Governor Booth being elected, and I don't know but I told him, the first time he was up here, that it would not hurt my feelings if he was elected.

Q.—But at the time he had this conversation with you in the night, he knew that you were going to support Mr. Farley?

A.—Yes, sir.

Q.—If there had been a wrong motive, a bad motive, he would not have been likely to unfold it to you, you being on the other side?

A.—I don't know if he would, knowing me as he does.

Q.—Do you know that he was a friend of Governor Booth's in the fight?

A.—Oh, I know from his statements. I can't know anything farther.

Q.—How old is your son?

A.—Nineteen.

Q.—Is he now in the room?

A.—Yes, sir.

Q.—He is in the room here now?

A.—Yes, sir.

Q.—Was with you at the time?

A.—He had not went to bed. He was sitting up reading.

Q.—The conversation was open there, in the presence of your son?

A.—Oh, yes, sir.

Q.—Was there anybody by when he met you in the hotel, when he spoke about this man having been too slow?

A.—Not that I recollect of that would notice the conversation.

Q.—They were passing in and out as usual there on the steps on such an occasion?

A.—Yes, sir.

Q.—He must have referred, then, to some other man than Mr. Northup; because you tell us that you had a conversation with Mr. Northup, and he told you that he had not approached him?

A.—Yes, sir. He told me at the time the man's name; but I, being a stranger to all the members, I don't recollect the name.

Q.—It was not Mr. Northup?

A.—No, sir.

Q.—Did he claim that he was in needy circumstances, too?

A.—No, sir; he only said that a man, by being too slow, sometimes lost a good thing.

Q.—At the time he said he had procured a man, he didn't say whether he had procured him by argument, or how?

A.—I think I asked him how he got along getting votes.

Q.—And you opened the conversation there in the room about the votes for Governor Booth?

A.—I commenced laughing at him as soon as he came in, and asked him if he was looking for votes.

Q.—So that really you opened the conversation on both occasions?

A.—Yes, sir.

Q.—Alluding to the Senatorial fight?

A.—Yes, sir.

Mr. Curtis—Mr. Wright, was there anything else in that note except "Come immediately?"

A.—That was all.

Q.—Anything about paying expenses?

A.—No, sir.

Q.—Did you have any subsequent conversation with him in reference to his expenses being paid, and why he was up here, knowing his condition?

A.—I didn't ask him anything in regard to that at that time.

Q.—Why, did he show you the dispatch at the room there?

A.—Yes, sir; he just handed it to me in the room there, and I read it.

Q.—Did he say whether he saw Hart that night when he came to see you?

A.—I don't recollect whether I asked him.

Q.—Did he come right from the train to your room?

A.—It could not have been very long, because it was between nine and ten when he came in there.

Mr. Amerman—I move we take a recess for ten minutes.

The motion was carried.

At nine o'clock the committee reassembled.

TESTIMONY OF S. B. WRIGHT.

S. B. WRIGHT, called, sworn, and examined:

The Chairman—Mr. Wright, the object of this committee is to investigate certain alleged frauds, charged against the honor and honesty of undesignated members of the Legislature in the late Senatorial contest. Please state to the committee what you know concerning it, or answer such questions as the gentlemen may deem proper to ask you.

Mr. Norton—Were you present with your father at the time Mr. McNamara called to see him from San Francisco?

Answer—Yes, sir.

Question—About what time in the night was it?

A.—I presume it was between nine and ten o'clock.

Q.—How long have you been acquainted with this gentleman named McNamara?

A.—I never saw him until he came up here during the Senatorial contest.

Q.—Had you seen him before this night that you met him at your father's room?

A.—Yes, sir; he was up here once before that time—him and his wife.

Q.—Your father has been acquainted with him for some time?

A.—Yes, sir.

Q.—You had not made his acquaintance before?

A.—No, sir; I never saw the gentleman that I remember of until he came up here during the Senatorial contest.

Q.—You heard your father's testimony in regard to that; you were in the room?

A.—Yes, sir.

Q.—Do you corroborate him in his statements?

A.—Yes, sir; I think everything he said is correct.

Q.—Do you think of anything except what he did state to the committee; do you remember of anything that occurred except what was stated by your father—any additional testimony?

A.—Well, in regard to the testimony that father gave concerning the night's conversation, I don't remember anything more in particular; but this gentleman told me that he was here to assist any person who might want assistance—any poor person.

Q.—Mr. McNamara told you that?

A.—Yes, sir.

Q.—In the presence of your father?

A.—Well, I think he told father that night, but he told me that previously?

Q.—He told you that before?

A.—Yes, I think so.

Q.—You had a conversation, then, with him when your father was not present with this man?

A.—Oh, yes, sir, I had several conversations with him.

Q.—Will you give that conversation in detail to the committee?

A.—Well, sir, I could not give any particular conversation in detail.

Q.—Well, I mean the substance of it?

A.—I don't know that I could do that, any particular conversation; but I remember one conversation that I had with him here in the lobby. I asked him—I met him in the morning and I asked him—if everything was all correct on his side. He said he thought so; that at the next ballot there would be a change.

Q.—What day was that with reference to the close of the fight?

A.—That was the day the fight closed.

Q.—That was in the morning before the Senators came in to join the Assembly in the Assembly chamber?

A.—No; I think the Senators were in there; but it was before the balloting.

Q.—He said there would be a change?

A.—Yes, sir; he said the next ballot.

Q.—Did he tell you what would cause the change?

A.—No, sir; but I inferred from his being here, and having said that he was here to assist any person who might want a little money, and his having said that he favored Booth's election, that it might be owing to pecuniary causes.

Q.—You inferred that?

A.—Yes, sir.

Q.—But he didn't state that?

A.—No, sir; he didn't make the direct proposition.

Q.—Did he tell you that he had used any means to change anybody?

A.—He didn't tell me that he had used any means directly.

Q.—Or indirectly?

A.—I think not.

Q.—Did he tell you that he had money for some needy person to vote for Governor Booth?

A.—He said he was here to assist any needy person who might need assistance.

Q.—That conversation occurred the night your father was there, in your presence?

A.—I think that conversation occurred there; but I think he stated it also to me previously.

Q.—But did he state anything different from that before?

A.—I don't know; our conversation was not confined to any particular subject, and I could not say whether he stated to me anything different from that or not.

Q.—Did he say anything to your father by which he induced him to vote for Governor Booth, by holding out any promises to him?

A.—No, sir; I think he wrote a couple of letters to father, asking him to give Governor Booth his support. He said that Governor Booth was a good man, and that it was the wish of the people that Governor Booth should be elected as United States Senator, and that Governor Booth was an educated man, and stated a great many other things in relation to it, and said that he ought to.

Q.—Now, in this conversation that night, when he came there soon

after leaving the train from San Francisco, and your father spoke to him and asked him if he was after votes, did he then at that time offer him anything; hold out any inducement to him?

A.—Oh, no; he never offered father any money at all; only he wanted, of course, to get father to vote for Booth, if he could; but he didn't offer him any money to influence his vote at all.

Q.—Did he tell you, at any conversation he had with you, that he had offered any person any money or anything else of value, any blank checks?

A.—No, sir; he was merely trying to initiate me into the mysteries of chicanery.

Q.—And the mode of electing Senators—you being a rising young man.

A.—Yes, sir; a sort of an ignoramus.

Q.—He seemed to hold out the inducement to you that it required money.

A.—I don't know that he held out that inducement to me; but he told me how those things were done frequently.

Q.—He told you that they were done by the use of money?

A.—No, sir. He told me that it could be done that way, sometimes.

Q.—Did he say that this was one of the times when money could be safely used?

A.—Well, he didn't say so, particularly; but from the fact that he said he was here to assist any person who was here and needed money, it seemed to me that this might be one of the times.

Q.—Did he pretend that Governor Booth, or any of his friends, had induced him to take this particular course?

A.—Well, he didn't say that Governor Booth had authorized him to come up here, or that any of his friends had furnished him with money; but that there was a dispatch sent him from Hart.

Q.—To come immediately?

A.—To come immediately.

Q.—And it was in answer to that dispatch that he came?

A.—I presume it was.

Q.—How long did he remain in the room with you that night?

A.—I could not tell; I didn't notice.

Q.—Half an hour?

A.—Well, I wouldn't make a statement whether it was half an hour or an hour, or two hours, because I don't know, and I wouldn't venture to state it.

Q.—Of course, your father had gone to bed, and he didn't remain long?

A.—Father was a little unwell from some cause, and had gone to bed earlier than usual that night, and he was in bed when Mr. McNamara came into the room.

Q.—Did this conversation that he had with you and your father and the other ones, make any impression on your mind as though unfair means were being used in the contest?

A.—Well, a man would naturally infer ——

Q.—Well, I don't care what men would naturally infer; but did it make any impression on your mind?

A.—Well, I will answer that by putting a question to you. I will ask you if a man ——

Q.—That is not the question. Did you regard the man as talking business, or in a genial manner?

A.—I inferred that he meant business.

Q.—Did you tell anybody about it?

A.—Well, I told Mr. Dixon that I thought if there was any man there that wanted to be influenced by money, that I could send him to an individual that would give him what he wished.

Q.—Did you tell Mr. Dixon what had occurred at the room between him and your father?

A.—I don't know that I did.

Q.—Have you told it to any person until to-night?

A.—I don't know that I told all of it; I may have told some of the circumstances that happened that night, but I have not told it all, I don't think.

Q.—Had he singled out any one person in the Assembly or Senate as being the needy person he was looking for?

A.—Well, sir, there was a person in the Assembly, the man to whom he referred, but I could not recall the gentleman's name.

Q.—Do you know him?

A.—No, sir; because at the time I was not acquainted with but few of the members.

Q.—In what part of the house did he sit?

A.—I don't know that.

Q.—Did you know the man when he did refer to him?

A.—I had heard the name previous to that.

Q.—Do you remember what county he was from?

A.—No, sir, I do not.

Q.—Did he refer to Mr. Northup, or Northcutt?

A.—I told you that I don't recollect the man's name; but it was not Northcutt, I can tell you.

Q.—Northcutt was not the man he referred to?

A.—He was not the man.

Q.—But some other man?

A.—He was not the man that he referred to as being likely to change his vote on the next ballot.

Mr. Curtis—Mr. Wright, did you have a conversation with Mr. McNamara before that, when he consulted with you as to the propriety of his approaching anybody?

A.—Before that conversation?

Q.—Before the fight, when you saw him at your father's room?

A.—I think that he told me previous to that night that he had come up here in Booth's interest.

Q.—Well, didn't he ask you if it would be safe, in talking to you, if it would be safe for him to approach your father?

A.—He asked me how father stood, and I think probably he asked me if there was any possibility of his changing. I told him I thought not.

Q.—Did he ask you, then, if you thought it would be safe for him to approach another member of the House, with whom you are acquainted, but the name you don't remember?

A.—Northcutt?

Q.—Yes, sir?

A.—I think he did.

Q.—What did he state to you about that?

A.—He first merely asked me if I thought it would be safe to approach him with money, and I said no. Well, I wouldn't say he said money, but to get him to change his vote, and I told him I thought it would not be proper. I inferred he meant money.

Q.—You were acquainted with Mr. Northcutt before?

A.—Oh, yes, sir.

Q.—Did he ask you if you was acquainted with him?

A.—No, he didn't ask me if I was acquainted with him; but I presume he knew it, because I was acquainted with Mr. Northcutt down there, and he knew I was acquainted with Mr. Northcutt, and knew Northcutt was coming from the same county, and coming up at the same time the delegation came up, and I having been here all the time, I presume he thought I knew him.

Q.—And he asked you up there if you thought it would be safe to approach Northcutt?

A.—Yes, sir, if it would be save to approach Northcutt.

Q.—And you told him you thought it would not?

A.—I told him I thought it would not be.

TESTIMONY OF JAMES ANTHONY.

JAMES ANTHONY, called, affirmed, and examined:

Mr. Summers—The object of this committee, Mr. Anthony, in this investigation, is to ascertain the facts in regard to the alleged bribery and corruption against the honor and honesty of undesignated members of this present Legislature, in regard to the late Senatorial contest. You will please state to the committee what you know concerning it, or answer any questions that may be asked you.

A.—I will answer any questions germane to the subject.

Mr. Norton—You are one of the proprietors of a paper, published in this city, called the *Sacramento Union*?

A.—I am.

Q.—You took a deep interest in the late Senatorial contest?

A.—I did.

Q.—Through your paper, and personally?

A.—Yes, sir.

Q.—You were a warm and ardent supporter of Governor Booth?

A.—Yes, sir.

Q.—From the first to the last, in the contest, do you know of any money, bank checks, or anything of value being used in that contest in the interest of Mr. Booth; if so, state it?

A.—I don't.

Q.—You were conversant with the struggle from its inception to its conclusion?

A.—Well, tolerably conversant; I didn't run much of nights, but during most of the time I generally knew how it was going on.

Q.—You didn't mix with the boys nights much?

A.—No, sir.

Q.—When they were prowling around at late hours, you were not out?

A.—No, sir.

Mr. Curtis—How long since you quit that?

A.—Well, about fourteen or fifteen years. I never did prowl much about at night. These questions are not germane, I think, Mr. Norton.

Mr. Norton—Then you know of no case where any man was approached by any friend of Governor Booth's, to procure his vote?

A.—None.

TESTIMONY OF JOHN W. FERGUSON.

JOHN W. FERGUSON, called, sworn, and examined:

Mr. Summers—Mr. Ferguson, the object of this investigation is to ascertain, if possible, the facts in regard to the alleged bribery or corruption, in regard to the honesty and honor of undesignated members of the present Legislature, in the late Senatorial contest.

Answer—Yes, sir.

Question—Please state anything that you may know, or answer any questions that may be asked you by the committee?

Mr. Norton—You are a member of the Assembly, Mr. Ferguson?

A.—I believe so, sir.

Q.—You were here during that memorable contest?

A.—I think I was—yes, sir.

Q.—Do you know of any person during the contest using any money, or making any promise to pay money, upon a contingency pending?

A.—No, sir, I don't.

Q.—Do you know of any person that had been offered money, bank checks, or drafts?

A.—I heard of no one being offered money. I heard Assemblyman Northup stating that money had been offered in his presence—that was about the remark—or he knew of somebody offering money. He didn't tell me positively who it was, or who the party was.

Q.—Did he tell you the amount that had been offered?

A.—No, sir, he didn't.

Q.—When did that occur, Mr. Ferguson—how long before Governor Booth was elected?

A.—I think it was either the morning of the election or the morning before, I am not certain which. I could not state positively; in fact, we were all talking rather jestingly at the time, and I didn't pay much attention to him—in fact, I paid no attention to it.

Q.—Did any person approach you in the lobby? Do you know Thomas Nosler?

A.—I was introduced to the man—met him once.

Q.—Do you remember his approaching you and telling you he was an old Placerite, and felt a deep interest in Governor Booth's election?

A.—Well, he didn't say that, but he spoke of what a love he had for the old Placerites, and wanted to know if I could not be induced to vote for the Governor. I told him no—I was elected in opposition to the Governor, and I didn't propose to play the d—n rascal, and we spoke rather sharply together and I turned around and left him.

Q.—Was that in the lobby, or in the body of the house?

A.—Not in the lobby; it was in the hall, in the dome—standing right by the railing in the dome.

Q.—Did he offer you any inducement?

A.—None, whatever. I didn't give him an opportunity.

Q.—You cut him off with the remark that you made to him?

A.—Yes, sir.

Q.—So you don't know?

A.—Don't know anything about it.

Q.—So you don't know what further he might have said?

A.—No, sir; yet, in one subsequent remark, in answer to my remark about my not being able to play the damn scoundrel, he said it would be to my advantage, or could be made to my advantage; something in that way.

Q.—It could be made to your advantage?

A.—Yes, sir; something that way.

Q.—Did he say in what respect?

A.—No, sir, not any at all.

Q.—Did you go in and tell some members of that?

A.—No, sir; some members passing at the time overheard my remark. I don't remember who the member was now; and I made the statement, too, when Mr. Northup and I were talking of this matter. I said I believed there was a man out in the hall there that was a little on the buy; but I said it in a joking manner, and Mr. Dixon, of Sonoma, came up at that time, and we told him he had better go out and investigate it. We didn't care to play York, and he thought he didn't care to play York either.

Q.—And that is all you know about it?

A.—That is all I know about it.

Q.—How long had you known Mr. Nosler?

A.—I had just been introduced to him that morning. Mr. Hart, the Governor's Private Secretary, came into the chamber to get me to go down with him into the Governor's office to examine some papers in regard to an application for the position of Notary Public, and as we passed through the hall we met Mr. Nosler, and Hart introduced me to him, and passed on, leaving us together. I have seen the man only once since, but only to pass the time of day.

Q.—That was the first time you had a conversation with Mr. Nosler, when you saw him out in the lobby?

A.—The only time.

Q.—How did you happen to see him?

A.—As we were going through, he met Mr. Hart and I, and Mr. Hart introduced me to him.

Q.—Was that the time you had a conversation?

A.—Yes, sir; Hart passed on; at least he said he wanted to speak to me a few moments, and Mr. Hart passed on.

Q.—And Mr. Hart wanted you to go down to the Governor's office to examine some papers as to a Notary Public?

A.—Yes, sir.

Q.—And Hart introduced you and left you?

A.—Yes, sir; Mr. Nosler said he wanted to speak to me a moment, and Hart passed on and left.

Q.—Was that the time he spoke to you?

A.—Yes, sir.

Q.—And you told him that you didn't want to play the damned scoundrel?

A.—Yes, sir.

Q.—Why did you make that remark? That would seem a little rude.

A.—Well, I am a little peculiar, and I didn't want to have anybody dictate to me about how I should vote; I wanted to have a mind of my own; I thought there might be something peculiar in it, but I didn't intend to lay myself liable to an investigation.

Q.—Then his language displeased you?

A.—Yes, sir.

Q.—Now, can you tell what his manner was, and what he said?

A.—I have given you what occurred, as near as I can; his manner was pleasant, of a tickling order.

Q.—In what manner did he propose tickling; did he say anything particularly that led you to think he was proposing to tickle your fancy?

A.—I don't know that; I should call his style rather of the blarney order.

Q.—Well, you are too much of a politician, Mr. Ferguson, to get angry at him for, in his persuasive manner, trying to influence you to vote for his friend.

A.—No, sir; but at that time I had heard that there was money in circulation for other things; but I didn't propose to place myself so that a man could bring me up in an investigation; I didn't propose to be so placed.

Q.—You thought, from his manner, that he was perhaps trying to do something of the kind, and you so answered him?

A.—Yes, sir; that was my reason for answering him in the way I did.

Q.—Did you say to any particular member that there was a man out in the lobby that had money; for him to go out and see what he had, and try to catch him?

A.—No; Mr. Northup and I spoke to Mr. Dixon that there was a man out there that had money.

Q.—Then it seemed to be your opinion and Northup's that Tom was out there and had money?

A.—No; they didn't know who was out there at all.

Mr. Norton—Do I understand you, Mr. Ferguson, that this conversation was an open one there, with parties passing and repassing by you all the time?

A.—Yes, sir.

Q.—He did not say he had any money?

A.—No, sir; nothing of the kind. The word money was not mentioned.

Q.—Nothing—no consideration mentioned?

A.—Nothing that you could call of a criminal nature, sir, as I understand the interpretation of the law.

Mr. Coggins—Mr. Ferguson, did you tell Mr. Ryan to go to Mr. Northup, and that he could get some information on the subject?

A.—Mr. Ryan came to me and told me that he understood from Mr. Boruck—and had fastened on me as the party who—who had received or been offered the two thousand dollars, or something in substance of that kind; and he went on—he had evidently got hold of this conversation between Nosler and myself, by some means or other—and I then made a statement, as nearly, to him, as I recollect—as nearly as I have to you all—and I referred him to Dixon and Northup in regard to the matter, and mentioned, I think, to him, at the time, the remark that Mr. Northup had made some statements of some kind, although I knew nothing of what proposition, if any, had been made to Mr. Northup. I think I told him that Mr. Northup knew of somebody that had been offered money. I didn't charge my mind with it.

Q.—Your impression was that Northup had seen money offered to some other person?

A.—That was my impression, from his remark to me.

Q.—Did you hear anything of any specific offer of that character—as

to who it was offered by, how much was offered, or anything of that kind?

A.—No, sir; I didn't make any inquiry at all.

Mr. Amerman—Mr. Ferguson, I believe that you were taking quite a deep interest in the Senatorial fight on the Democratic side?

A.—It was believed that I was.

Q.—Do you know anything that will throw any light upon certain rumors that have been in circulation in regard to the election of Judge Hagar for the short term?

A.—No, sir.

Q.—No offer; no inducements or promises?

A.—No, sir; none whatever. I know I supported Mr. Lewis (?) in the caucus, and I knew of no conclave being entered into between any parties. It was supposed that that was above suspicion.

TESTIMONY OF C. T. WHEELER.

C. T. WHEELER, called, sworn, and examined:

Mr. Summers—The object of this investigation is to ascertain, if possible, the facts in regard to the alleged bribery and corruption that has been charged against certain undesignated members of this House, in regard to the late Senatorial contest; if you know anything, please state to the committee, or answer any questions that any members see proper to ask.

Mr. Norton—You were connected with Governor Booth in his contest for the Senatorship, living here in the city?

Answer—Yes, sir.

Q.—Intimately connected with him?

A.—Yes, sir.

Q.—Connected with him in his business?

A.—Yes, sir.

Q.—And felt a deep interest in his success?

A.—Yes, sir.

Q.—Do you know of any inducements being held out of a pecuniary nature or otherwise?

A.—No, sir, I don't.

Q.—To any party?

A.—I don't.

Q.—To vote for any candidate for Senator?

A.—No, sir; not that I know of.

Q.—No checks or promises?

A.—Nothing pertaining to it.

Q.—No promise of position in the future to any man?

A.—No, sir.

Q.—To give Governor Booth his support?

A.—No, sir; no shadow of a promise.

Mr. Curtis—There was a question asked you by Mr. Norton: His question was directed more particularly to the members. I will ask you, do you know of any middle man acting in the interest of Governor Booth, who was not a member. Do you know of any money being placed in the hands of anybody, or any agents of any sort, to be used away down where you or other parties would not know of it?

A.—I don't know of any, nor no shadow of any, or anything appertaining to it.

Q.—Then there was nobody you know of to such an arrangement?

A.—None whatever.

Q.—Nothing of that sort?

A.—No, sir.

TESTIMONY OF W. J. TINNIN.

W. J. TINNIN, called, sworn, and examined:

The Chairman—Mr. Tinnin, I will state that the object of this investigation is to ascertain, if possible, the facts in regard to the alleged bribery and corruption that has been charged against the honor and honesty of undesignated members of the present Legislature, with regard to the late Senatorial contest. If you know anything in regard to the matter, you will please state to the committee, or answer any such questions as may be asked you by the members of the committee.

Mr. Norton—You are a member of the Assembly, Mr. Tinnin?

Answer—Yes, sir.

Q.—Was here all through the late Senatorial contest?

A.—Yes, sir.

Q.—Took an active part in it, as a member of the Democratic party?

A.—I did.

Q.—Do you know of any money, promises of place, check, hope of place or position being offered to any member by any member of either House, or by any other members, to gain votes for any candidate for Senator—vote or votes?

A.—I don't, of my own knowledge.

Q.—State to the committee what you do know of it, and what you have gained by hearsay. This examination takes a wide range, and we don't confine the witnesses to legitimate testimony.

A.—All I know is this: It was from two to five days before the election for Senator, that Mr. Northup came to me, I think it was about the Golden Eagle Hotel, either on the sidewalk or inside of the house, I don't remember which, and said to me that it was worth three thousand dollars for a Democrat to vote for Booth; I said to him, as well as I recollect, or asked him, rather, if there had been any money offered in that way, if he was not going to expose it; he said no, he could not; I asked him why not, and he said there was a Democrat mixed up in it, and I said I didn't care a d——n who was mixed up in it; and I asked him if he would not send the fellow to me, and if he would make me an offer I would blow him.

Q.—Did he tell you who the man was?

A.—He didn't; I asked him, but he wouldn't say.

Q.—Did he say he had promised not to tell?

A.—No, sir.

Q.—Did he tell you the circumstances under which the offer was made?

A.—No, sir.

Q.—He only made the general remark?

A.—Yes, sir; only made the general remark.

Q.—And you called his attention to the fact that you thought it was his duty to send the man to you?

A.—Yes, sir.

Q.—And you would expose him, even if he was a Democrat?

A.—Yes, sir.

Q.—He seemed to want to shield him because he was a Democrat?

A.—No, sir; he made some such remark.

Q.—I understood you to say that in response to a question?

A.—Yes, sir; he said he was a Democrat.

Q.—He said he could not do it, because there was a Democrat mixed up in it?

A.—He didn't use those words exactly.

Q.—Did he tell you how long before it was that this man had approached him?

A.—No, sir, he didn't; that is about all the conversation we had on the subject.

Q.—What was his appearance—did he seem much excited over it, or take it pretty coolly?

A.—No, sir; he didn't seem very much excited.

Q.—That was in front of the Golden Eagle Hotel?

A.—Either in front or inside; it was in that vicinity.

Q.—Is that all you know, Mr. Tinnin, of this charge of bribery and corruption?

A.—Yes, sir; that is all I know that would have any bearing in any way on it.

On motion of Mr. Freeman, the committee, at ten o'clock P. M., adjourned until Monday night.

THIRD DAY'S PROCEEDINGS.

SACRAMENTO, Monday, February 9th, 1874.

The committee met at half-past seven o'clock, evening. Present, a full committee.

TESTIMONY OF THOMAS HUGHES.

THOMAS HUGHES, called, sworn, and examined:

The Chairman.—Mr. Hughes, the object of this investigation is to ascertain the facts, if possible, in regard to the alleged charges of bribery and corruption against undesigned members of the Assembly in regard to the late Senatorial contest. Do you know anything in regard to that matter? If you do, please state to the committee, or answer such questions as the committee is prepared to ask you in regard to the matter.

Mr. Norton.—What is your name, and where do you reside?

A.—Thomas Hughes.

Q.—Where do you reside?

A.—Nevada County.

Q.—How long have you resided in Nevada County?

A.—Twenty-two years.

Q.—What part of Nevada County?

A.—About the center.

Q.—How far from Grass Valley?

A.—Two miles.

Q.—What is your business?

A.—Farmer.

Q.—Been engaged in that business ever since you have been there?

A.—No, sir. I have been engaged in that business since eighteen hundred and fifty-five or eighteen hundred and fifty-six.

Q.—How large a farm do you own?

A.—Three hundred and twenty acres.

Q.—Were you here, in Sacramento, during the late Senatorial contest for the long term?

A.—I was.

Q.—How long did you remain in Sacramento City?

A.—About three weeks; perhaps three weeks and two days.

Q.—Did you come at the commencement of the session of the Legislature?

A.—Before the Legislature convened.

Q.—Before the Legislature convened?

A.—About four days, I think.

Q.—Four days before?

A.—Yes, sir.

Q.—What brought you to the city four days before the Legislature convened?

A.—I was a candidate, sir, for Assistant Sergeant at-Arms, and came here.

Q.—In the Assembly or Senate?

A.—In the Senate.

Q.—You came here on that business?

A.—Yes, sir.

Q.—And remained here till after the Senatorial contest was over?

A.—Yes, sir.

Q.—How many days after it was over before you went to your home?

A.—I think I went up the same day; I think so; I am positive; I think it was the same afternoon.

Q.—Do you know Mr. Northup?

A.—Yes, sir.

Q.—How long have you been acquainted with him?

A.—I got acquainted with him, sir, in the County Convention. I think it was last June. He was a candidate before the Convention, and I was a delegate.

Q.—He was a member, was he?

A.—Yes, sir.

Q.—Did you have any conversation with him about either of the candidates during the fight?

A.—I think not, sir; I think not.

Q.—Would you remember if you had any conversation with him?

A.—Well, I am pretty positive that I would, sir.

Q.—Pretty positive that you would. How often did you see Mr. Northup during the time you were here?

A.—I saw him every day.

Q.—Met him frequently?

A.—Sometimes two or three times a day, sometimes half a dozen.

Q.—Did you go to see him, or he to your room in the Golden Eagle Hotel, during that time?

A.—He came to me. He and I were in the Golden Eagle Hotel drinking; I think we drank five or six times at the bar, and I invited him to

my room to smoke a cigar; it was getting warm there, the room was very warm.

Q.—What time was that with reference to the Senatorial contest; how many days before?

A.—I cannot tell you.

Q.—Was it two or three days before?

A.—I think it was.

Q.—For what purpose did you invite him up to your room?

A.—For the purpose of smoking a cigar. We were talking for perhaps an hour before that.

Q.—What were you talking about in the bar-room?

A.—I cannot tell you what it was; a general conversation; perhaps about the candidates, perhaps about the election.

Q.—You cannot recollect whether you were talking about the Senatorial struggle or not?

A.—I think we was, perhaps.

Q.—What is the reason you cannot remember the substance of what was there said?

A.—Well, in the first place, I didn't suppose that I would ever be obliged to remember it, and it passed out of my mind. I did not think I would ever be called upon for anything.

Q.—What was your condition, as to being intoxicated, or otherwise, when you went to your room?

A.—Well, I had been drinking.

Q.—Did you feel the influence of the liquor you drank?

A.—Yes, sir, I did.

Q.—Somewhat intoxicated?

A.—Well, I think I was, a little; that was what made me go.

Q.—To get away from the heated atmosphere?

A.—To get away from the hot stove and out of the crowded room.

Q.—What did you say to him when you got him up in your room?

A.—Well, the only conversation that I remember—I read his testimony—that I had in regard to that. We was talking about the candidates; and we was talking about this J. P. Jones being in town. We heard there was heaps of money here. J. P. Jones had half a million—that was the common talk, bar-room talk—and there was going to be a terrible amount of money in the fight. That was the only conversation I had with him in regard to money matters.

Q.—How much money did you have with you at that time?

A.—Probably one hundred and fifty dollars to two hundred dollars.

Q.—Was two hundred dollars the outside figure?

A.—Yes, sir.

Q.—Were you talking in the interest of Governor Booth, or against him?

A.—Against him.

Q.—Against Governor Booth?

A.—Yes, sir.

Q.—In whose candidacy were you interested?

A.—Well, I was interested in James T. Farley, after he got the nomination; after his nomination I was a Farley man.

Q.—Before he received the nomination?

A.—Well, my preference when I came here was Eugene Casserly.

Q.—And after Eugene Casserly withdrew and went out of the fight?

A.—Then Farley.

Q.—How was it about Mr. Finney?

A.—Well, I mean the nominee of the party.

Q.—He was really the man you were favorable to?

A.—He was my man; but after Casserly went out of the fight, then Farley.

Q.—You stood by the party nominee?

A.—Yes, sir.

Q.—I understand, by your testimony, that you are a Democrat?

A.—I am, sir; yes, sir.

Q.—Did you say up there in that room, at that time, or at any other time, that you would give him a sum of money to drop Farley?

A.—No, sir.

Q.—You are positive about that?

A.—I am very positive that I never named "drop Farley" to him, for I was a Farley man.

Q.—You didn't want him to drop Farley then?

A.—No, sir.

Q.—Did you say anything to him against Senator Farley?

A.—No, sir, I don't think I did; I don't know of any reason that I should have.

Q.—Do you know, during the contest or before it actually commenced here in the city, that any inducements were held out, either in money, gold coin, gold notes, checks, drafts, or any other things of value, to any person to vote for any candidate?

A.—No, sir, only hearsay; that Jones was here with bushels of money, that was the bar-room talk.

Q.—Did you, or did you not, hold out any inducement to Mr. Northup, a member of the Assembly, to drop Farley?

A.—No, sir; I did not.

Q.—Did not propose to give him any sum of money—say three thousand dollars, or any other sum?

A.—No, sir.

Q.—At any time?

A.—No, sir.

Q.—At the Golden Eagle Hotel, at the time I named, or anywhere else?

A.—No, sir. I am certain that I never wanted him to oppose Farley, or oppose any other Democrat.

Q.—Well, did you offer him any sum of money, or anything of value, to go for anybody?

A.—No, sir.

Mr. Curtis—Or to stay away from the fight in the joint convention?

A.—No, sir.

Mr. Norton—Or to stay away, keep out and not vote all?

A.—No, sir.

Q.—Did you approach him there or elsewhere upon the subject, so as to influence his vote?

A.—No, sir.

Q.—With the purpose of influencing his vote?

A.—No, sir.

Q.—Were you not astonished when you read the testimony of Mr. Northup?

A.—I was really, indeed, and told him so.

Q.—Do you know, Mr. Hughes, that your testimony, given to-night, flatly contradicts Mr. Northup's testimony?

A.—Yes, sir; I do.

Q.—You are aware that it is in direct contradiction of it?

A.—Yes, sir. I saw Mr. Northup yesterday on the street, talked with him perhaps fifteen minutes. He told me that he was tight at the time, that he was full at that time, or this thing never would have occurred. Said he: "I knew positively that you never intended to influence me or buy me; I merely said that as a joke." Said I: "That is a hard joke on me, that is a very hard joke on me. I have a family of young boys growing up, one of them is nineteen years old, and one of them is sixteen, going into company, and it is a sorry joke for me."

Q.—There is no fun in it for you?

A.—No, sir; not at all.

The Chairman—You did not say to Mr. Northup, after this thing had occurred, that you were merely jesting—that you did not mean what you said when he said that you had offered him three thousand dollars?

A.—I do not understand you.

Q.—You did not tell Mr. Northup that you were merely jesting? He says that you made this proposition in a jesting way.

A.—No, sir; I did not.

Mr. Curtis—I understood you to say, Mr. Hughes, that you never made it, in jest or in earnest?

A.—I never made it in any way, and he told me he knew I did not, yesterday.

Q.—Did you have a meeting with Mr. Northup, here or elsewhere, after the charges were published in the *Spirit of the Times*, Mr. Boruck's paper?

A.—I did not say that at all, sir.

Q.—I know; but did you see Mr. Northup after that?

A.—Yes, sir.

Q.—Did you and Mr. Northup converse about the charges made by Mr. Boruck?

A.—Yes, sir; I think there was some conversation about it.

Q.—Where did that occur; in this city?

A.—That occurred in this city; yes, sir, that occurred here. I was going to San Francisco when I met him.

Q.—You were on your way to San Francisco?

A.—Yes, sir.

Q.—From Nevada?

A.—Yes, sir.

Q.—And met Mr. Northup?

A.—Yes, sir.

Q.—Did he broach the subject to you, or you to him?

A.—I think he broached it to me; I think so; I am positive about that.

Q.—What was said in that conversation about it?

A.—Well, I do really forget; there wasn't but a very little said.

Q.—Did you, in that conversation, state to Mr. Northup that you had read or found out what these charges were?

A.—Yes, sir; I heard of this *Spirit of the Times* arrangement, but never read it.

Q.—But you heard of it?

A.—Yes, sir.

Q.—And what it contained?

A.—Yes, sir.

Q.—Did you say to him that you were sorry for what you had said?

A.—No, sir.

Q.—That you had been drunk, and was not accountable for what you did say?

A.—No, sir.

Q.—Did you say what I have stated to you in those words, or in substance as I have stated?

A.—I said nothing. If I said anything—he said I was very drunk—if I have said anything—if I have said a word—I says: “If I have opened my head, don’t, for God’s sake, bring me into anything.”

Q.—He said you were very drunk?

A.—Yes, sir; said I was very drunk.

Q.—And admitted that he himself was drunk?

A.—He admitted that he was “full.”

Q.—Yes, sir, “full;” that is the term he used?

A.—Yes, sir.

Q.—That is an expressive term, is it not?

A.—Yes, sir; I believe so.

Q.—Almost synonymous with a man’s being drunk, isn’t it?

A.—Yes, sir; I should say so.

Q.—How did he appear at that interview; as though he was intoxicated?

A.—No, sir; I did not notice it, for I didn’t think I was much myself.

Q.—That is the general calculation: the tighter a man gets the soberer he thinks he is.

A.—I think I was sober, but he says I wasn’t sober.

Q.—If you named three thousand dollars to him as the sum you were willing to pay him to drop Farley or keep away from the joint convention, did you have any means to keep the promise good?

A.—No, sir; I didn’t know where I could get three thousand cents for that purpose.

Q.—You had entered into no negotiations with anybody to do a thing of that kind?

A.—Nobody at all, sir.

Q.—You say you were not politically friendly with Governor Booth, and of course were not aiding him?

A.—I was not politically friendly with Governor Booth, or aiding him. I should not have known him if he came into the room.

Q.—What is the value of your estate, take it altogether, real, personal, and mixed?

A.—Well, probably, six thousand dollars or seven thousand dollars.

Q.—Not over six thousand dollars or seven thousand dollars?

A.—Six thousand dollars or seven thousand dollars; that would be the extent.

Q.—You are well acquainted with Senator Irwin?

A.—Well, I am somewhat acquainted with him.

Q.—He had been assisting you in your contest for Assistant Sergeant-at-Arms?

A.—Senator O’Connor. He was an old friend of twenty-two years standing.

Q.—You are intimately acquainted with Senator O’Connor?

A.—Yes, sir; and Senator Kent and Mr. Pelham—A. G. Pelham.

Q.—Senator O’Connor, you say, had assisted you, and been very friendly with you in your contest?

A.—Yes, sir; he put me in nomination, and done all he could for me.

Mr. Curtis—Although you were somewhat intoxicated that night, Mr Hughes, you were not so drunk but you knew at the time what you were doing?

A.—I think not, sir.

Q.—And you know now what transpired at that time?

A.—Well, I am pretty positive; I didn't know I was so drunk as this gentleman tells me I was.

Q.—Then could there have been any motive for your offering a Democrat to drop Farley, a Democrat, when you were a Democrat?

A.—No, sir.

Q.—You are a Democrat when you are sober?

A.—I am a Democrat all the time.

Q.—I was going to ask you, if you were a thorough Democrat when you are a sober man, you would be a stronger Democrat when you are drunk?

A.—Yes, sir.

Q.—Then there could have been no inducement for you to solicit a member to leave the Democratic ranks?

A.—No, sir; not the slightest.

Q.—Then you were for the Democratic nominee, no matter who he was?

A.—The Democratic nominee was my man.

Q.—Then if you had been ever so drunk, there was no probability of your doing so?

A.—That is what I think; I certainly never tooted my horn yet for a Republican; and I don't see how it could be, for I could not make anything by it.

Mr. Curtis—My experience is, a drunken Democrat is a stronger Democrat than a sober one.

A.—That is what I think.

Q.—Then there is nothing in that?

A.—No, sir.

Q.—Did you attempt to use any money in the election to promote the election of a Democrat?

A.—Not a twenty-five cent piece did I use in all.

Q.—For your own purposes?

A.—Yes, sir, my own purposes.

Q.—And you took no interest in the Senatorial contest sufficient to advance any money or use any money?

A.—No, sir.

Q.—What you might have done in persuasion as a Democrat is another thing?

A.—Yes, sir.

Q.—You used no improper means?

A.—No, sir.

TESTIMONY OF M. M. ESTEE.

M. M. ESTEE, called, sworn, and examined:

By Mr. Summers—Mr. Estee, the object of this investigation is to ascertain the facts, if possible, in regard to the alleged bribery and corruption, in regard to undesigned members of the present Legislature, in regard to the late Senatorial contest. If you know anything

in regard to that matter, you will please state it to the committee, or answer such questions as any of them ask in regard to the matter.

Mr. Norton—Please give a succinct statement of your connection with the late Senatorial contest, beginning as far back as you deem material, in connection with this charge of bribery and corruption.

A.—Well, I don't know anything about the charge. I know something about the charge, but I don't know anything about any bribery and corruption. I can give you the history of my connection with the Senatorial fight. Of course, I was a very warm supporter of Governor Booth for that position; had been for a year, or as far back as his name was mentioned in connection with that position. I was nominated for the Assembly, for my position, known to be a Booth man at the time. When I was nominated I announced it; and I stumped during the canvass, and, of course, did everything I could to secure his election. I came up here four or five days before the Legislature met, and although I made a little fight for myself, as candidate for Speaker, yet I came here, of course, with the desire to see him elected Senator above everything else—that was my desire. So far as money is concerned, I never knew of money being used directly or indirectly, nearly or remotely, in the matter of a Senator. On the contrary, I do know that in the fight in San Francisco for our election, and in the fight here, those that I was connected with did not have money enough for cigars, unless they had it from their own pockets. I don't know of any fund or any money used even for cigars, except that money that each of us paid out.

Mr. Norton—You was here all through the contest until its close?

A.—I was here from beginning to end. I know I have heard Governor Booth say fifty times to us, when it has been talked about last Fall frequently, during the canvass, that a little money ought to be used to give our meetings a better show, or a better notice, etc. I have heard him say, always, he would not use money for any purpose; not as I believe from any desire to be mean about it, but that he was opposed to the use of money in this Senatorial fight. I do not think any money was used by any person who was a candidate, on any side, this Fall, in this city. Of course, I only express my opinion; but I am certain that Governor Booth, and his friends, neither counseled the use of nor directly or indirectly used a dollar. I think I would have known it if they had, and I know I don't know it. I would say, further, that of course during this Senatorial fight, the two or three weeks that it was going on, there were rumors in the air about money being used in every direction, by everybody, and especially by those in the interest of beating Governor Booth; but I think I never had any definite knowledge, and I don't now believe that any money was used, even to beat Governor Booth, in this fight in this city.

Mr. Curtis—When you said just now, Mr. Estee, that when the friends of Mr. Booth were talking about using money, that was in legitimate ways, at the election?

A.—I mean for using money in making bigger displays at the meetings. Well, it was legitimate expenses. Legitimate expenses of the canvass last Fall, in San Francisco, and out of it. We had no fund to send—no fund to help our friends in the country last Fall.

Q.—You had nothing to do with the Senatorial election?

A.—No, sir; not a bit; not at all. I know there were some newspapers in the country that I know, or I was told, wanted a little money, but they did not get it. I want to say that they, themselves, never said a word about it, but some friends of theirs spoke in their be-

half. Relative to this matter of Mr. Brown, I may be pardoned for saying that I never knew that Mr. Brown was Mr. Booth's friend, until long subsequent to the election, and, I think, subsequent to his election as Senator. I know, that in the contest last Fall, in San Francisco, Mr. Brown was opposed to our legislative ticket; that I know; but I think that in the Judicial election, that Mr. Brown favored McKinstry. I don't say that with any view of wishing to assume any position toward or against Mr. Brown; on the contrary, I know nothing at all against him. I merely spoke of it as within my knowledge as a fact. I have heard leading men of all parties say, here, Democrats and Republicans, that they never knew a Senatorial fight conducted in this city where they believed it was conducted entirely without money except this; and I think that is the general impression among the leading members of the Legislature, and the leading people of the State who took an active part in the Senatorial fight. I don't speak now as to any particular party, but I mean as to the whole fight.

Mr. Norton—Take all parties, Democrats and Republicans?

A.—Yes, sir; I think there are a good many members here, and I think that they would all bear me out, the most of them at least, that it is the general belief of the members of the Legislature, and I have heard it discussed, that it was one of the few Senatorial fights where money was not used. There was very little drinking and very little spending money, by those means that have frequently been resorted to in times past, in this city, to my personal knowledge.

Mr. Amerman—Mr. Estee, there was a remark you just made, a general remark. You don't pretend to assure this committee, of your own knowledge, that there never was during that Senatorial fight any improper means used to insure the election of anybody?

A.—No, sir. I think my testimony was sufficiently explicit. I said, to my knowledge. I said of public sentiment, that the sentiment of the Legislature, or those members with whom I had conversed, the general idea, and my idea, was, that money had not been used in this Senatorial fight, in Sacramento.

Q.—Or in any other place?

A.—In what?

Q.—In any other place?

A.—Or in any other place, relative to this Senatorial fight. I said that was my impression. I don't pretend to say that money has not been used, for I don't know, but, to my knowledge, I say it has not been used. I think you will find, that in an exciting political contest like this was, or like any Senatorial contest, there are always a great many men who want to carry news to all sides, and men who think they know a great deal about the fight, and about the chances of getting votes, etc. And, doubtless, the same rule in that regard prevailed at this time as in other Senatorial fights, but I have never had any definite knowledge of it.

Mr. Curtis—Do you know of any person ever applying for money to be used in that way?

A.—Never in the world, sir. I will state that I met Mr. Booth's friends a great many times during the Senatorial fight. I mean his known personal friends in the Legislature, not in caucuses. But there were a few of us met together and talked over the caucus; well, you might say, almost daily, and I never heard even an intimation of the

use of money. On the contrary, it was—we were very impecunious on that question. I know that all were very anxious for me to sign their certificates to get their first week's pay here.

TESTIMONY OF JOHN L. LOVE.

JOHN L. LOVE, called, sworn, and examined:

Mr. Summers—Mr. Love, this is an investigation to ascertain the facts in regard to the alleged bribery and corruption against undesignated members of the present Legislature, in regard to the late Senatorial contest. If you know anything in regard to that matter, you will please state it to the committee, or answer such questions as may be put to you in regard to the matter.

Answer—I don't know of any such thing ever having occurred.

Mr. Norton—You were the Attorney General of the State?

A.—Yes, sir.

Q.—Were you here during the late Senatorial contest?

A.—Yes, sir.

Q.—In Sacramento all the time?

A.—With the exception of two days.

Q.—Two days you were away?

A.—Yes, sir.

Q.—Do you know of your own knowledge, or have you learned from others, that any money or thing of value was improperly used in this contest to gain votes for anybody?

A.—No, sir; I never heard of any such thing.

Q.—You don't know it and never have heard of it?

A.—No, sir; except from the general daily rumors in public print.

Q.—I mean, while the contest was going on until its close, did you hear of any such thing?

A.—Never a word.

Q.—Were you intimately connected with Governor Booth in his contest?

A.—I was in daily consultation with him and his friends.

Q.—Was in daily consultation with him?

A.—Yes, sir.

Q.—Was any such thing as that ever stated in your presence, that money or anything was to be used?

A.—Never, sir.

Q.—Not a word ever said about it?

A.—Never, sir, that I recollect of. If the subject was ever mentioned in any way it was deprecated, and it was understood that there was not to be anything of that kind attempted by anybody.

Q.—It was understood by all his friends that this was to be a fair and square fight, without the use of money or anything else?

A.—Yes, sir.

Q.—And it was such a fight as far as you know?

A.—Yes, sir; I am certain it was.

TESTIMONY OF ALBERT HART.

ALBERT HART, called, sworn, and examined:

Mr. Summers—Mr. Hart, the object of this investigation is to ascertain the facts, if possible, in regard to the alleged bribery and corruption against the honor and honesty of undesignated members of the present Legislature, with regard to the matter of the Senatorial contest. If you know anything in regard to the facts, you will please state to the committee, or answer such questions as may be propounded to you by the committee.

A.—No, sir; I know of no bribery or corruption at all, to my own knowledge, in any manner, shape, or form.

Mr. Norton—Where was you during the late Senatorial contest; here in Sacramento City?

A.—In Sacramento City? Yes, sir.

Q.—Here all the time?

A.—Here all the time.

Q.—You are Governor Booth's Private Secretary?

A.—Yes, sir; I am, sir.

Q.—And was during all that contest?

A.—Yes, sir.

Q.—Did you take an interest in the fight?

A.—A great deal.

Q.—Worked hard for the success of Governor Booth?

A.—As well as I knew how.

Q.—Do you know one McNamara, who resides in San Francisco?

A.—I do, sir.

Q.—Did you see him here in Sacramento during that contest?

A.—I did, sir.

Q.—What brought him to the city when he came here on the night during the contest?

A.—He came up at my request.

Q.—Came at your request. How did you reach him? What kind of a request did you send to him?

A.—He was up here twice; once he came at the request of a friend; the second time he came at my request.

Q.—How long did he stay the first time he was here?

A.—A day, I think.

Q.—One day?

A.—I think so.

Q.—Did he take any stock in the contest then?

A.—Not that I am aware of, sir.

Q.—Did you know what his relations to Governor Booth were; whether friendly, or not?

A.—Friendly, as he told me. I never saw him until that time.

Q.—You learned that at the first interview?

A.—Yes, sir.

Q.—How did you come to talk to him about it?

A.—A friend of mine wrote me from San Francisco that Mr. McNamara—

Q.—By the way, what is your friend's name?

A.—His name is Martin.

Q.—What is his given name?

A.—W. H., I think.

Q.—Now go on.

A.—He wrote to me that a friend of his—a Mr. McNamara—was a strong adherent of Booth, and very intimate with Mr. Wright, the member from Sonoma, and he thought that he could, by conversation with Mr. Wright, be of some use to Mr. Booth. I showed the letter to a couple of friends.

Q.—Who were they?

A.—Mr. Dodge was one, and Mr. Roush was the other.

Q.—Mr. Dodge is here; he is Mr. Booth's business partner in San Francisco, and Mr. Roush is a member of the Assembly?

A.—Yes, sir. I thought it advisable to send for Mr. McNamara.

Q.—Who advised you?

A.—I say I spoke to them on the subject.

Q.—Yes, sir; and they advised you to send for him?

A.—No, sir; I don't know that they advised me. I asked them if they would send for him in my place. I sent for Mr. McNamara, or rather I wrote to my friend Mr. Martin, that I should be very happy to see Mr. McNamara. He wrote me he would come up the next day, or day after. He came up. I met him and had a conversation with him. He said he had strong personal relations with Mr. Wright, and he would have a conversation with him. I told him, I said, "Mr. McNamara, I understand from Mr. Luttrell (?) that the Sonoma delegation would vote for Mr. Booth if Mr. Casserly was out of the field; he is out of the field, and I don't see why they should adhere to the Democratic caucus, and not come right out and vote for Mr. Booth." And in the general conversation we had, he was asking how the fight was going on, and if parties were using any money; and I distinctly and emphatically told him that there was not a cent being used on the part of Mr. Booth—not a cent in any shape or form, and no trading. If you can get Mr. Wright's vote for Mr. Booth, we would like it; but I tell you now, in advance, that Mr. Booth will be elected without Mr. Wright's vote. He had some conversation with Mr. Wright. What it was, I don't know. He told me that he thought Mr. Wright was so complicated with the Democratic caucus that he didn't know whether he would vote for Mr. Booth now, but he might in time; and he asked me if he could be of any further use in the matter, and I told him no; and he returned to San Francisco. A few days afterwards I received a telegram: "Had I better come up to-night?" I telegraphed him, "Come up immediately," because my object was, that if he had any influence with Mr. Wright, to have him use it, so that if he didn't vote for Mr. Booth, to keep him out of the Democratic caucus, which was perfectly legitimate and perfectly right; and that was all that occurred between me and Mr. McNamara in regard to Governor Booth's election.

Q.—Did Governor Booth know what you were doing in the premises?

A.—No, sir; not a word of it.

Q.—Having these daily consultations with him, how is it, Mr. Hart, that you let such an important matter as that be kept away from the Governor?

A.—I didn't think it was any great matter of importance to communicate to him.

Q.—You seemed to be straining every nerve to aid him legitimately, as you said, and to gain Mr. Wright's vote?

A.—Had I succeeded, or saw any show of success in getting Mr. Wright's vote through Mr. McNamara, I should have spoken to him; but I saw it could not be done, and so said nothing about it.

Q.—What was the cause of your stating to Mr. McNamara that there was no money in this fight?

A.—The general conversation—he wanted to know if the other side was using money, or any money was attempted to be used. I told him if there was money, the other side would have to use it, for we didn't intend to spend a cent.

Q.—Was that called out from you by hints from him that he wanted money to use?

A.—No, sir; I didn't understand it in that light at all. It was merely a general conversation.

Q.—Did you learn that he did arrive, in response to your telegram to "Come immediately," and that he went that night to see Mr. Wright, at his room, and found him in bed?

A.—I don't know whether he found him in bed or not. I think he saw Mr. Wright that evening. He told me the next evening that he had seen Mr. Wright.

Q.—Did you learn from him, or from anybody else, that he was here to aid poor people in the fight?

A.—No, sir; I never heard any such transaction at all.

Q.—Was seeking out poor men, to see if he could not influence them to vote for Mr. Booth?

A.—No, sir.

Q.—When did you first hear of that?

A.—I heard it in the papers.

Q.—That was the first you ever heard of that?

A.—The first I ever heard of it.

Q.—Did you know Mr. McNamara before he was introduced to you by the letter of your friend?

A.—I never saw him before in my life, and I never heard of him.

Q.—Upon what ground did he place his warm support for Governor Booth—such warm support as to be ready to work for Governor Booth?

A.—He said he had followed Governor Booth through his political course, and admired it very much. He said he was the best man for the place, and that he was the choice of the people. He knew he was in San Francisco, and like many others who follow a man that leads a party, he felt inclined to support him.

Q.—Did you talk with Mr. Wright after McNamara went to him the first time?

A.—I don't think I ever had a conversation with Mr. Wright on political matters in my life.

Q.—Then your dispatch to him: "Come immediately," was an answering dispatch to one he had sent you?

A.—Either a dispatch or a letter, I am not certain which. I rather think it was a dispatch.

Q.—Either a dispatch or a letter asking you whether it was best for you to come up or not, was it?

A.—Yes, sir.

Q.—What was the reason of your sending him back. Did you think he could not be used to advantage in the contest when he went back. You told him there was no further use for him?

A.—I saw very well that he could make no impression on Mr. Wright; either to vote for Mr. Booth, or to leave the Democratic caucus. He

said Mr. Wright had engaged himself in the caucus in such a manner that he could not honorably withdraw from it; that he would like very much to vote for Governor Booth, and if it came to the press, he would like to vote for him, and might do so; but at present he could do nothing.

Q.—You took as deep an interest, then, Mr. Hart, as any warm friend of Governor Booth could or did?

A.—Yes, sir; I took as deep an interest in it as any man could in the success of anything.

Q.—Do you know of any money, either in gold coin, gold notes, bank checks, drafts, or anything of value being used in the contest to gain votes for Governor Booth during that contest?

A.—Not one solitary cent of any kind, character, or description, in thought, word, or deed.

Q.—Do you know of any fund being set aside for that purpose by Governor Booth, or his friends—Mr. Dodge, or others—for anything?

A.—No, sir.

Q.—Did you have any talk with Mr. Northup about this contest?

A.—I think not, sir; I don't think I ever had any conversation with him to allude to it at all.

Q.—Mr. Carter—did you ever talk with him?

A.—Mr. Carter?

Q.—J. C. Carter, one of the members of the Assembly?

A.—No, sir.

Q.—Of Yuba, I believe?

A.—No, sir; I don't think I ever had a conversation with any member, of either the Senate or House, that I know of, except, probably, Mr. Roush, who, of course, I was very intimate with.

Q.—When Mr. Roush and Mr. Dodge thought you had better send for Mr. McNamara, was it for the purpose of his using any improper influence in favor of Governor Booth, or money, or anything else?

A.—No, sir; not at all, sir.

Q.—But simply, as you have stated—legitimately, if possible, to reach Mr. Wright?

A.—Yes, sir. In the first place, Mr. McNamara spoke to me very highly of Mr. Wright as a man of integrity of character, and if any one had ever mentioned money to any gentleman of that character, he would have forbidden it, if he had done nothing else.

Q.—He is a man of large wealth, Mr. Wright?

A.—I believe so, sir.

Mr. Curtis—Mr. Hart, how long do you say you have known Mr. McNamara?

A.—I have never known him at all until he came up here.

Q.—Do you know anything about his financial standing; his pecuniary condition?

A.—I don't know anything at all about the man, whatever.

Q.—Do you know why it was that he should be so anxious to come up and engage in this fight?

A.—Nothing, except what I learned from his own lips. He felt a deep interest in the new party, and in the election of Governor Booth to the United States Senate.

Q.—Was he supplied with any money given to him, or using it in an illegitimate or improper manner; do you know anything of that of your own knowledge?

A.—No, sir; I don't.

Q.—Are you acquainted with Thomas Nosler?

A.—Yes, sir.

Q.—How long have you known him?

A.—Fifteen or sixteen years, probably, in all.

Q.—Where does he reside?

A.—In San Francisco.

Q.—Was he here during this Senatorial contest?

A.—Yes, sir.

Q.—How long did he remain here?

A.—He was here, off and on, during the whole time, if not the whole time.

Q.—Did he ever request you to go into the Assembly and ask any member to come out that he wanted to see?

A.—He asked if I was acquainted with Mr. Ferguson, and I said that "I was." Said he, "Will you introduce me?" and I said, "I will;" and I said, "Mr. Ferguson, Mr. Nosler;" "Mr. Nosler, Mr. Ferguson."

Q.—Then, when you called Ferguson out, it was at the request of Nosler, to have an introduction?

A.—Yes, sir.

Q.—Did you say to Mr. Ferguson, when you went into the Assembly, that you desired him to go down into the Governor's room, to examine some papers with regard to the appointment of a Notary Public in Fresno County?

A.—I don't think I did.

Q.—And, in the hall, you met Nosler and introduced him, and passed on, and left Ferguson and Nosler talking?

A.—I introduced them in the hall. I don't remember using any such words at the time. I had called Mr. Ferguson once or twice down to the Governor's office to look at some papers, applications for the appointment of Notaries, and it may be possible that I said it then, but I don't recollect doing it then; in fact, I am pretty strongly of the impression that I didn't.

Q.—You didn't? Then you think, at the time you called Mr. Ferguson out, it was at the request of Mr. Nosler, that he might have an introduction to him?

A.—Yes, sir; for the very reason that I think I introduced him to Mr. Ferguson, and went back to the Assembly chamber.

Q.—Then your sole object in the matter was to introduce Mr. Nosler to Mr. Ferguson?

A.—Yes, sir.

Q.—Do you know why Mr. Nosler was so very anxious to be introduced at that time?

A.—No, sir.

Q.—He never said a word about it?

A.—No, sir.

Q.—He was engaged in the Senatorial contest after that?

A.—I think he was; yes, sir.

Q.—Who was it wanted the appointment of Notary Public in Fresno, at that time that you wished Ferguson to see—either at that time, or any other time—do you know?

A.—No, sir, I don't; I can tell by looking at the books.

Q.—Do you know where he lives; whether at Millerton or Fresno?

A.—I think at Millerton; I am not certain; it may have been as to the applications; there are applications made, and they are generally referred to the delegation after they come in.

Q.—Did you have a conversation with Mr. Nosler subsequent to your introduction of Ferguson to Nosler?

A.—No, sir.

Q.—Did he tell you what the conversation was between Ferguson and yourself?

A.—Well, I don't recollect whether he did that or not; I have asked him since.

Q.—Did you not know at that time, Mr. Hart, that that was the object of calling Ferguson out, that you wanted to introduce him to Nosler, and that Nosler might talk with him in reference to the Senatorial election? Was not that understood between you and Nosler?

A.—No, sir.

Q.—Nothing of that sort, at all?

A.—No, sir; not with a view of that; he desired that I would introduce him, and that was the only conversation.

Q.—Had you and Nosler ever talked about Ferguson before, about the possibility of getting him over?

A.—No, sir.

Q.—Can you account for how he asked you to call out Ferguson?

A.—Well, Nosler knew that I was acquainted with Ferguson; that Ferguson went to school with me when he was a boy, and he thought that I knew him.

Q.—Then there was an understanding between you and Nosler?

A.—No, sir.

Q.—That Nosler should talk with him about the Senatorial election?

A.—No, sir.

Q.—Nothing of the sort?

A.—No, sir.

Mr. Amerman—Mr. Hart, were you acquainted with Mr. McNamara's financial condition?

A.—No, sir; I didn't know Mr. McNamara at all until the day I met him up here—never knew of him or anything about him.

Q.—Do you know, Mr. Hart, who paid McNamara's expenses to Sacramento, and his expenses while he stayed here?

A.—Yes, sir.

Q.—You stated, I believe, in your examination in chief, that you told Mr. McNamara that so far as Mr. Wright was concerned that you would like to have his vote, but that Governor Booth would be elected without his vote, in any event?

A.—Yes, sir.

Q.—Had you knowledge, at that particular time, about how many votes Governor Booth would receive, and who would vote for him?

A.—State that last again, please; I didn't hear it distinctly.

Q.—Did you state to Mr. McNamara that so far as Mr. Wright was concerned you would like to have his vote, but, whether he voted for Governor Booth or not, Governor Booth would be elected? Had you any knowledge, at that time, when you made that remark to Mr. McNamara, how many votes Governor Booth would receive, or who would vote for him?

A.—I had that, and presumed, as most every one does who goes into a fight and counts on men he thinks would vote—I felt certain of sixty-three votes at that time, of course excluding Mr. Wright.

Q.—I believe that it is in evidence, Mr. Hart, before this committee, that Mr. McNamara—at least upon his second visit to Sacramento—came up at your request, on telegram?

A.—Yes, sir; that is, he came up at my request upon his writing or telegraphing to me, if he should come up or not.

Q.—Had you any knowledge, previous to sending that telegram to Mr. McNamara, that he could influence any member of the Legislature to vote for Governor Booth?

A.—No. I didn't think that he could influence anybody—but from his conversation with me and his close relationship, as he said with Mr. Wright, and the situation that the Democratic caucus was in, I thought probable he might prevent him from going into the caucus. Of course my object or idea was to make that caucus as little as I possibly could, legitimately.

Mr. Norton—Was it understood between you and Mr. McNamara, and before he returned to San Francisco, that if you needed him you was to send for him—was that matter talked over between you?

A.—I think it was; but nothing definite.

Q.—Why did you telegraph, "Come immediately?"

A.—Because I wanted, that night, to prevent Mr. Wright going into the Democratic caucus, if I could. It was rumored that some changes were about to take place, and I wanted to weaken that caucus as much as I could.

Q.—I think you said, Mr. Hart, that you had ascertained, through McNamara, although you didn't see Mr. Wright yourself, that you could not change Mr. Wright?

A.—I presumed he could, or thought he could, and I was willing to try it as long as possible, and to leave nothing unturned that I could.

Q.—I understood you to say that that was the reason why he had been dismissed, and you said to him, he could go back, because you found his efforts with Mr. Wright were futile at that time?

A.—Futile at that time. They didn't succeed at that time.

Q.—If that was true, how was it you came to telegraph him, unless there was some pressing necessity?

A.—I telegraphed to him in reply to his letter or telegram. I didn't know but he had heard something—had more power than when he first came up, or found out something, or would be of more service than at first.

Q.—Did the friend who wrote to you in the first place state his (McNamara's) financial condition?

A.—No, sir.

Q.—Did you learn, during the contest, whether he was a man of means or not?

A.—No, sir; I never made any inquiries about him. He seemed to me to be a man of culture and education.

Q.—Who paid his expenses from San Francisco here, and his expenses while here, and his expenses while returning?

A.—I paid his expenses from San Francisco here, and back.

Q.—Out of your own money?

A.—Yes, sir.

Q.—What did his expenses amount to?

A.—Fifty dollars.

Q.—Who paid his expenses the second time?

A.—He paid his own expenses. I gave him nothing the second time.

Q.—By whose direction did you give him the fifty dollars; your own notion?

A.—Yes, sir; it was my own notion solely.

Q.—Did Governor Booth know at the time, or has he since learned, that you paid McNamara's expenses to the extent of fifty dollars?

A.—No, sir; he does not know it to-day.

Q.—Did the friend who wrote to you in the first instance, request you to pay his expenses?

A.—Yes, sir.

Q.—He paid his expenses up? You didn't send money down to him to come up?

A.—I sent the money down to him.

Q.—Sent it by express?

A.—No, sir; I sent it by telegram. It was too late for the express.

Q.—He drew on you in San Francisco?

A.—Yes—no. I don't know how that is done. He drew on me, and the money was sent on to him, on his order.

Q.—Did you specify what amount?

A.—Fifty dollars.

Q.—Or did you learn afterwards how much he drew? Did you leave it blank?

A.—No, sir; I sent fifty dollars down to him, and informed him I had sent fifty dollars.

Q.—During the conversation you had with him here, did he say anything about the fifty dollars?

A.—Not a word.

Q.—Did you mention it to him?

A.—I did not.

Q.—When he came the second time—in response to your telegram, "Come immediately"—did you say anything to him about the expense of that trip?

A.—No, sir.

Q.—Was fifty dollars all the money you let him have?

A.—Yes, sir.

Q.—That came out of your private purse, as I understand you?

A.—Yes, sir.

Q.—Did any of Governor Booth's friends, who were intimately connected with you in the fight, like Mr. Nosler and Mr. Dodge, know of your having sent fifty dollars to Mr. McNamara to defray his expenses?

A.—I don't think anybody knew it; at least, I have never told anybody.

Q.—This is the first time you have made it known?

A.—Yes, sir.

Mr. Coggins—I did not exactly understand, with reference to the Democratic caucus. Had not Mr. Farley been nominated at the time Mr. McNamara came up the second time?

A.—Yes, sir.

Q.—Didn't you say the object was to have him keep Mr. Wright out of the Democratic caucus?

A.—Yes, sir.

Q.—Was there an object—was there to be a meeting; any additional caucus?

A.—There was an additional caucus; I learned it was for another purpose.

Q.—How many days before the election was that?

A.—I think it was two or three days before the election; two days, I think. Of course I can't be exact as to a day or two; but I give it to you as nearly as I can remember.

Mr. Amerman—Mr. Hart, I understand you to say that on Mr. McNamara's second trip here you have no knowledge of who paid his expenses here, and while he was here, and on his return?

A.—No, sir.

Mr. Norton—Do you know how much money he had with him the second trip?

A.—I have no idea in the world. I never asked him any questions about money.

Q.—Did you talk about money?

A.—No, sir; didn't talk about it at all. The word money never escaped our lips in that connection at all. I sent for him, the same as I would send for any man that I thought could help my cause any, but only in a proper manner.

Q.—What caucus was it you say you refer to, Mr. Hart, when you say you wanted to keep Mr. Wright out of the Democratic caucus; the caucus had already been held, and Mr. Farley nominated, before he came the second time?

A.—I understood the caucus was to be held some two or three nights before the election, in which some trading was to be done between the Republicans and Democrats.

Q.—You learned that from rumor?

A.—Yes, sir.

Q.—That an alliance was to be formed?

A.—An alliance was to be formed, and my desire, of course, was to make that alliance, as far as Democrats or Republicans were concerned, to make each caucus as little as I possibly could.

Q.—To keep them from attending it?

A.—Yes, sir; to keep them out of it. I told Mr. McNamara that I thought, from the manner in which Mr. Wright was elected, and the position he had taken during the caucus, and from what I had heard, was such, that upon a reasonable judgment of the matter, he certainly could not go into any such arrangement at all.

Q.—He came by the Vallejo route?

A.—Yes, sir.

Q.—What time would he reach here? I am confining the examination to the second trip.

A.—About half-past nine.

Q.—Did you see him before he went to see Mr. Wright?

A.—I did.

Q.—Were you there at the train, waiting for him?

A.—No, sir; I saw him at the Golden Eagle Hotel.

Q.—Had you notified him where to find you—where you would be?

A.—No, sir.

Q.—He came right to the Golden Eagle Hotel?

A.—I presume so.

Q.—There you met him?

A.—Yes, sir.

Q.—Did you there spread out your idea about the second caucus?

A.—Yes, sir; I told him what I thought was in the wind.

Q.—You told him what you thought he had better try and do, with Mr. Wright, did you?

A.—Well, I left that entirely to Mr. McNamara. I didn't know anything at all about Mr. Wright, and he said he did.

Q.—How long did he remain with you, at the Golden Eagle Hotel, at that time?

A.—For about, probably, twenty-five minutes.

Q.—Did he go right then to see Mr. Wright?

A.—I left him. I was sick and went home.

Q.—That, you say, was about half-past nine?

A.—Yes, sir.

Q.—When did you next see Mr. McNamara?

A.—I saw him the next evening.

Q.—The next evening?

A.—Yes, sir.

Q.—Did you talk with him about what he had said to Mr. Wright that night?

A.—I didn't ask what he had said. He told me, in substance, this: That he had conversed with Mr. Wright. Mr. Wright would like very much to come and vote for Mr. Booth, and didn't know but what he might do so before the election was over; but now he felt bound by his caucus ties.

Q.—Did you learn from Mr. McNamara that he had used all his supposed influence to keep him out of this supposed caucus that was going to be held?

A.—No, sir.

Q.—That being the main object you had in view, why didn't you talk with him about that, and see what Wright was going to do about this caucus that was in expectancy?

A.—Well, I didn't seem to think any more about it. He didn't seem to influence him, and I let the matter drop.

Q.—If Mr. McNamara didn't say a word to Mr. Wright that night about his keeping out of the Democratic caucus, he didn't fulfill his mission?

A.—No, sir; but I supposed he did, from his conversation with me that Mr. Wright could not leave the caucus; that he had seen Mr. Wright, and that Mr. Wright would like to vote for Mr. Booth, and thought he would do so before the election took place—at least that day he could not vote for Mr. Booth; but that he would rather vote for a caucus nominee.

Q.—Did he inquire of you who you thought most likely to be reached of the other members in the House?

A.—No, sir; he spoke of seeing Mr. Northup; but of that, nothing was ever said about it.

Q.—How did he ever come to speak of seeing Mr. Northup, he being a stranger to him and to you?

A.—I didn't understand; I thought he knew Mr. Northup; but our conversation was very limited—little or nothing was said.

Q.—You mean Northcutt?

A.—Yes, sir; Northcutt, of Sonoma.

Q.—He was acquainted with Mr. Northcutt, but not Northup, of Nevada?

A.—Yes, sir; Northcutt is the one I mean.

Q.—Did he say he was going to see Mr. Northcutt?

A.—Yes, sir; he said he would see all the Sonoma delegation; but I never asked him about any except Wright.

Q.—Did you learn what the result was?

A.—I think he saw Mr. Northcutt; but I never had any conversation with him about it.

Q.—You have stated all you know about it?

A.—Yes, sir.

Q.—From beginning to end?

A.—Yes, sir.

Mr. Amerman—Mr. Hart, you stated that your main object in getting Mr. McNamara here was to break down the Republican and Democratic caucus, in consequence of a rumor you had heard that they were about to unite. As a matter of fact, do you know that the Republicans and Democrats did unite, so far as the Senator for the long term is concerned?

A.—I don't, sir.

Q.—Have you heard anything that would induce you to believe that any Republican—and when I say Republican, I mean the men of what are called the strict Republican party—have you any knowledge that would induce you to believe that any single member of the Republican party, straight, agreed to vote for any Democratic nominee for Senator for the long term?

A.—No, sir; I don't believe that I ever did.

TESTIMONY OF JULIUS H. MOTT.

JULIUS H. MOTT, called, sworn, and examined:

Mr. Summers—I will state the object of this investigation to be: to ascertain the facts, if possible, in regard to the alleged bribery and corruption charged against the honesty and honor of certain undesigned members of the present Legislature. Please state to the committee what you know, if anything, in regard to this matter, and answer such questions as the committee may deem proper to put to you in regard to this matter.

Answer—I don't know that I have any general statement to make. I should like to respond to questions.

Mr. Norton—Where do you reside, sir?

A.—I reside in Oakland.

Q.—What is your name?

A.—Julius H. Mott.

Q.—Were you here in Sacramento during the late Senatorial contest, Mr. Mott?

A.—Yes, sir; I was.

Q.—What brought you here; business?

A.—I came here to seek a position in the Legislature; as candidate for the position of Journal Clerk.

Q.—In the Senate or Assembly?

A.—Assembly.

Q.—How many days before the session commenced did you arrive in this city?

A.—Well, not more than a day or two, I think.

Q.—You remained here all through the contest?

A.—Well, nearly all; I went home once to Oakland, and returned again; I was here nearly all the time.

Q.—Are you acquainted with Governor Booth?

A.—I am somewhat; yes, sir.

Q.—Was you acquainted with him when you came here, or did you form his acquaintance when you did come?

A.—I was acquainted when I did come.

Q.—Did you come here in his interests?

A.—No, sir. I came here in my own interests.

Q.—While you were here, did you work for the success of Governor Booth?

A.—I did; yes, sir.

Q.—With what men did you work?

A.—Well, with quite a number of men—that is to say, I conversed with them in regard to the question of the day—the Senatorial question—with quite a large number; almost every member that I made the acquaintance of.

Q.—Made yourself prominent in the contest, by way of electioneering for Governor Booth?

A.—Not particularly.

Q.—If you spoke to most of the members, it was quite a prominent position?

A.—Not all the members; all that I got acquainted with. I was acquainted with, perhaps, half the number.

Q.—Who did you do the most work with?

A.—It is difficult to say. I conversed with most of the members I got best acquainted with. If you desire me to say, I suppose I can mention twenty members.

Q.—Did you talk with Mr. Northup?

A.—Yes, sir.

Q.—What means did you use in endeavoring to convince him Governor Booth was the best man?

A.—I don't know that I spoke to him about it; my recollection is not positive; I said to Northup, and every other man with whom I conversed; used such arguments as I thought were proper in expressing my good opinion of the Governor as a man and as a reformer, and the exponent and leader of the people—especially on railroad questions.

Q.—How long have you been acquainted with the Governor?

A.—Personally, but a few months.

Q.—A short time?

A.—Yes, sir; I had, however, known him politically some time, and was at work for him when he run for the position of Governor.

Q.—Was you working in the election with Mr. McNamara?

A.—I don't know Mr. McNamara.

Q.—Do you know Mr. Hart?

A.—Yes, sir; not very intimate; I met him a few times.

Q.—Was you working with him?

A.—No, sir.

Q.—Do you know Mr. Dodge?

A.—No, sir.

Q.—Do you know Thomas Nosler?

A.—No, sir; I don't.

Q.—You was rather here on your own hook?

A.—On my own hook, individually; yes, sir.

Q.—Did you have much money to use in the contest?

A.—No, sir; I didn't use a cent.

Q.—Did you have any to use?

A.—I had enough to pay my own expenses; that is all.

Q.—I mean in the Senatorial contest?

A.—No, sir; not one dollar.

Q.—Do you know of any money being used?

A.—No, sir; I don't.

Q.—Did you hear, during the contest, that there were offers of two or three thousand dollars for votes?

A.—No, sir. I didn't.

Q.—Have you learned of that since?

A.—No, sir; nothing only what I have seen in the daily papers in regard to this investigation.

Q.—Well, that apprised you of that fact, didn't it?

A.—Yes, sir. That apprised me of it; that was the first intimation that I had.

Q.—Did Governor Booth know you was taking such a prominent part in his contest?

A.—I don't know. I didn't consider the part I took as very prominent. I don't know to what extent he was aware of it. I said very little.

Q.—Did you meet him frequently?

A.—I met him two or three times while I was here.

Q.—Did you consult with him about it?

A.—No, sir; not at all.

Q.—Are you acquainted with Messrs. Wright and Northcutt?

A.—I think I know them very slightly.

Q.—Did you have occasion, during the contest, to try and persuade Mr. Wright to vote for Mr. Booth?

A.—I don't recollect that I did, sir. I may have done so; but I have no recollection on the subject. I can't recall the number of members with whom I spoke on the subject. I spoke whenever opportunity offered, as I had occasion, with those I met, and had occasion to. I didn't go out of my way to speak to any on the subject.

Q.—Had any one, either in San Francisco, Oakland, or Sacramento, notified you that money was to be used in the contest?

A.—No, sir; no one whatever.

Q.—And you say you know of no money being used?

A.—No, sir; I don't know of any money being used.

Q.—Or you don't know of any offers of money to parties to vote for Governor Booth?

A.—No, sir; I don't know of any such offer.

Q.—Money, or anything else?

A.—No, sir; money or anything else. I don't know of any offers of any kind whatever.

Mr. Amerman—Mr. Mott, Governor Booth, I believe, was elected on Saturday. Was you up here on that day?

A.—On the day he was elected?

Q.—Yes, sir?

A.—Yes, sir.

Q.—Was you here the day previous?

A.—Yes, sir; I think I was.

Q.—Do you know Mr. Richard Brown?

A.—I do—slightly.

Q.—On the day previous to Governor Booth's election, did you see Mr. Richard Brown come out of his room to the head of the stairs with any individual?

A.—I don't recollect.

Q.—Do you know Mr. Carter, of Yuba?

A.—Yes, sir.

Q.—Did you see Mr. Carter, of Yuba, come out of Mr. Brown's room and go to the head of the stairs?

A.—I don't recollect that circumstance, sir; I don't recollect it.

Q.—If you had seen them would you have recollected them?

A.—Probably not, unless there was something—unless my attention would have been called particularly in regard to it. The fact that Mr. Brown, or any other employé of the House, was in conversation with Mr. Carter, or any other member, would not have attracted any particular attention.

Q.—You have no recollection of seeing Mr. Brown, or Mr. Carter, or any other member, parting at the head of these stairs?

A.—No, sir.

Q.—Did you see any two gentlemen at the head of the stairs, shaking hands with each other, and hear one of them say: "This is on honor, between gentlemen." Do you recollect of hearing such an expression at the head of the stairs?

A.—I don't recollect, sir.

Q.—Are you intimate with Mr. Brown?

A.—I never met him but on two occasions, and on one of those he insulted me very grossly, and without just cause.

Q.—Have you had any conversation with him since then?

A.—No, sir; except to deliver a message from a member of the Assembly afterwards, that he wanted to see him; none since, or none before.

Q.—Will you be kind enough to state to the committee in what manner Mr. Brown insulted you?

A.—Yes, sir. It was very early in the session, when he was a candidate for the position of Enrolling Clerk, and I for Journal Clerk. One day I desired to see him about something about his candidacy—something of no particular importance. We were in the hall, just outside of the Assembly chamber, and there were two gentlemen engaged in conversation with him, who seemed to be just on the point of leaving him, and I thought it would be a good opportunity, when they got through conversing with him. I stopped near him, about eight or ten feet away, just quietly waiting until they left. He saw me, and turned round and asked me what particular business I had to be listening to their conversation. I told him I was not listening. He asked me what I was standing there for. I said I wanted to see him, and he said he didn't want to see me. I considered that as very insulting.

Q.—In any interview you had with Mr. Brown, did Mr. Brown tell you that if you didn't leave he would slap your face.

A.—No, sir; he didn't.

Mr. Norton—Who were the two men that Mr. Brown was talking with at the time you allude to?

A.—I don't know; they were both strangers to me.

Q.—Was Mr. Carter one of them?

A.—No, sir.

Q.—They were both strangers to you?

A.—Yes, sir; whereas, Mr. Carter is familiar to me.

Q.—Were they members of either House?

A.—I think not.

Q.—That, then, was the only conversation you had with Mr. Brown?

A.—Yes, sir.

Q.—Except to deliver that message?

A.—Yes, sir.

Q.—Did you have any conversation when you delivered the message?

A.—No, sir. It was a verbal message. I simply delivered the verbal message, and nothing more.

Q.—You had no intercourse with him any more?

A.—No, sir.

Q.—You are employed here?

A.—No, sir.

Q.—Did you remain in Sacramento or return to Oakland?

A.—I returned to Oakland, and have not been here since until to-day.

By permission of the committee, Mr. Brown was permitted to ask the witness a few questions.

Mr. Brown—Did you hear every word that I said?

A.—I don't know.

Q.—When I was addressing you?

A.—I didn't hear you use any such language.

Q.—You cast reflections on my veracity; for I swore that I stated to you that I would slap your face?

A.—I did not hear any such thing.

Q.—I would like to have you reply certainly that you heard every word I said before you got out of the reach of hearing.

A.—I am not positive about that. You were saying something; I don't know whether it was to me or the two gentlemen you were with. I didn't hear everything, or there was nothing to attract my particular attention. If you said it, I didn't hear it.

Q.—Possibly I spoke too indistinctly?

Mr. Amerman—I move to take a recess of fifteen minutes.

The motion was seconded.

Mr. Brown—I have prepared a little statement of the facts, in vindication of my character in this matter. I hope you will have the patience to read it over in time. I presume you will have an executive session here, and I would like to have you examine it. I expect it is too lengthy for you to incorporate in your report, but I would like to have you read it over, and for what it is worth, give it credit.

Mr. Amerman—I move the communication be received and handed to the reporter of the committee.

The motion was carried.

Mr. Amerman—I renew my motion to take a recess.

The motion was carried, and the committee took a recess at eight o'clock and forty-five minutes, P. M.

At nine o'clock, P. M., the committee reassembled.

Mr. Amerman—Mr. Chairman, I understand that one of the witnesses that were ordered subpoenaed by this committee has refused to come. I would, therefore, ask that the gentleman who was commissioned to subpoena him, Mr. Conroy, be sworn. After his examination, I shall move for an order to compel him to come.

TESTIMONY OF M. C. CONROY.

M. C. CONROY, called, sworn, and examined:

Mr. Norton—What was the gentleman's name who refused to obey the subpoena, Mr. Conroy?

Answer—William Eugene McNamara.

Question—Did you serve the subpoena upon him yourself?

A.—Yes, sir; I served a copy of this.

Q.—Will you make a return upon the subpoena?

A.—I have just got back, and was about to make it.

Mr. Norton—I would defer the further examination of Mr. Conroy until the officer makes his return upon the subpoena.

TESTIMONY OF T. G. PHELPS.

T. G. PHELPS, called, sworn, and examined:

The Chairman—Mr. Phelps, I will tell you that the object of this investigation is to ascertain the facts, if possible, in regard to the alleged bribery and corruption against certain undesigned members of the Assembly, in regard to the late Senatorial contest. Please state to the committee what you know in regard to that matter, if anything, and answer such questions as may be propounded to you by the committee.

Answer—I know of no bribery, myself.

Mr. Norton—Where do you reside, Mr. Phelps?

A.—In San Mateo County, near Belmont.

Q.—Were you in Sacramento about the time of the Senatorial election, Mr. Phelps?

A.—Yes, sir; at the time.

Q.—How long did you remain here?

A.—I think some ——. I was here on two occasions; I think the last time about three or four days.

Q.—Did you take any active part in that Senatorial contest, Mr. Phelps?

A.—No; I cannot say that I did.

Q.—I believe you are a Republican, are you not, Mr. Phelps?

A.—Yes, sir.

Q.—One of what they called old line Republicans?

A.—Well, I have been called that, and never found any fault with it.

Q.—Justly so, too; you did not go off with the reform party, did you?

A.—No, sir.

Q.—When you were up here, Mr. Phelps, about the time of the Senatorial contest, did you take any active part in endeavoring to influence any member, either in the House or Senate, to vote for any man who was a candidate for the United States Senate?

A.—No, sir; I cannot say that I did. I had some considerable talk with one or two men, but I cannot say that I took any active part in trying to influence them one way or the other. I had a good deal of friendly talk with one or two members of the Legislature; only two. I think, perhaps, some casual talk with others; but only slight.

Q.—Do you remember to have had a talk with any Senator, or legislator, not influencing him by any improper means at all—I don't ask that—but getting or influencing him to vote for any man for the United States Senate?

A.—No; I don't know that what I said could have been considered urging him at all. One of the Senators frequently talked with me about it, and we canvassed the whole proposition over; had a great deal of free talk, but I don't know that I attempted to influence him at all, and I don't know that I did influence him at all. I presume that I didn't. At the same time, I talked with him frequently, in a friendly way, the same way that I would with anybody on any proposition; and during the whole period of time we had a great deal of talk about it.

Q.—Was that talk in reference to his supporting any particular gentleman for the position of United States Senator?

A.—Well, it was in reference to supporting all that were candidates, pretty much.

Q.—All who were candidates for United States Senator?

A.—Yes, sir; that is to say, we canvassed the merits of all the men in a social kind of way.

Q.—Yes, sir; and then did you use your influence with him in reference to any particular one?

A.—Well, I can't say that I used any influence with him; I gave him freely my ideas.

Q.—In whose interest, Mr. Phelps, was you working or talking?

A.—Not specially in anybody's interest; more in the interest of what I considered the party and the subject, than in the interest of any man.

Q.—Did you urge any one to vote for Jim Farley?

A.—No, sir.

Q.—You didn't?

A.—No, sir.

Q.—Did you argue or suggest to any gentleman to vote for Governor Booth?

A.—No; I stated as my opinion, that under the circumstances, the best thing to be done was to vote for Booth; that, under certain circumstances, if I were a member of the Legislature I would vote for Booth?

Q.—Do you remember to have met a member of the Senate at your room, just before the Senatorial election, when you were in company with the Senator and Mr. Staples from San Francisco?

A.—Not in my room; I met them in the Senator's room.

Q.—In the Senator's room?

A.—Yes, sir.

Q.—Did they come from that room to your room?

A.—No.

Q.—Did they go from your room to the Senator's room?

A.—No; I don't think they were at my room at all.

Q.—Will you give the name of that Senator, Mr. Phelps?

A.—The Senator was Mr. Finney, that I have reference to.

Q.—Of San Mateo?

A.—Yes, sir; San Mateo and San Francisco.

Q.—Did you hear a conversation between Mr. Finney and Mr. Staples?

A.—Yes, sir.

Q.—In reference to the election of some gentleman to the United States Senate?

A.—Yes, sir.

Q.—Who was the candidate that they were talking about?

A.—Well, principally, Mr. Booth.

Q.—Do you remember the conversation between Mr. Staples and the Senator, Mr. Finney?

A.—Well, I think I remember the substance of it.

Q.—Could you give the substance of it to the committee, Mr. Phelps?

A.—The substance of it was, on the part of Mr. Staples—that he thought the people were pronounced for Mr. Booth; he thought he was the best man among the candidates, and the people would feel the best satisfaction in his election—the greatest satisfaction in his election. That was about the substance of it.

Q.—Did Mr. Finney, in your presence, consent or state to Mr. Staples that he would vote for Governor Booth; that he had concluded that he would do so?

A.—Well, I cannot say positively that he did; but still, I am under the impression that he gave him to understand that he did make some such statement as that. He made a statement to me prior to that that he would, under certain circumstances, vote for Mr. Booth, and I think he repeated it to Mr. Staples.

Q.—He, before that time, had voted with the partisans of Mr. Shafter?

A.—He voted for Mr. Shafter.

Q.—Do you know, Mr. Phelps, of any moneys having been used in that election in any way?

A.—Not a dollar.

Q.—Or any checks, or promises either of office or hopes of reward in any way?

A.—Not at all.

Q.—Well, all that you know then was legitimate, such as one man would use to his friend?

A.—Exactly.

Q.—And no advance or approach was made in reference to using money, or corruption in any manner?

A.—No, sir.

Mr. Norton—Are you well acquainted with Senator Finney?

A.—Very well.

Q.—How far do you reside from where he resides in San Mateo?

A.—Oh, I suppose forty miles; more than that, probably forty-five.

Q.—Were you acquainted with his financial condition before the Senatorial fight came off?

A.—Yes, sir.

Q.—How?

A.—Yes, sir.

Q.—Was his farm mortgaged, and if so, to what amount?

A.—That I cannot say—the amount.

Q.—As near as you can, Mr. Phelps?

A.—Well, that I don't know. I know from Mr. Finney that his farm is not entirely paid for; but what the amount of incumbrance on it is, or whether it is in the shape of a mortgage, I don't know. Mr. Finney is a poor man.

Q.—It has been rumored, I understand, Mr. Phelps, that that mortgage was paid off soon after the Senatorial contest closed. Do you know whether that is true or not?

A.—I do not.

Q.—Was there anything said more than you have stated in substance;

I mean at the interview held by yourself, Senator Finney, and Mr. Staples?

A.—No, nothing more in substance.

Q.—How many times did you meet the Senator there with Mr. Staples?

A.—On two occasions.

Q.—And talked about the contest?

A.—On two occasions; both times in Mr. Finney's room. On one occasion I went from Mr. Finney's room to Mr. Goodale's, and on both occasions we were, perhaps, together an hour. So far as Mr. Finney and myself were concerned, it was a continuation of the conversations we had had together. Mr. Staples came in merely to participate in what we had before talked of; but I presume I don't understand how much we had talked or what conclusion, in a neighborly, friendly sort of a way, we had come to.

Q.—Were you present, Mr. Phelps, at the time Mr. Finney did change from Shafter to Booth, and did you hear his reasons given in joint convention?

A.—No; I was not present in joint convention.

Q.—Were you here in the city at that time?

A.—Yes, sir.

Q.—You learned of it soon after?

A.—Yes, sir; read it in the papers.

Q.—Were they such reasons as you had supposed, from what Senator Finney had said to you, he would give, if he gave any?

A.—Well, I was rather expecting he would give reasons more in detail.

Q.—The substance of the reasons were just about the same as had been talked over between you in those interviews?

A.—Yes, sir; but we had talked to a greater length than that.

Q.—Then you did know that his farm was mortgaged?

A.—I understood so.

Q.—You don't know whether the mortgage has been paid?

A.—Yes, sir. I don't mean to say it has been paid; I understood there was money due on the farm, but whether it was in the shape of a mortgage, or what shape it was, I don't know.

Q.—You have not learned, you say, that since the Senatorial contest closed, that that incumbency had been lifted?

A.—No, sir; nor did I know the amount of it.

Q.—Did you answer Judge Curtis that no offers of money, bank checks, gold notes, drafts, or anything else, were mentioned during these conversations?

A.—No, sir; nothing at all.

Q.—Nor no promise of place?

A.—Nothing was said that might not be said in this room, or anywhere else.

Q.—It was a legitimate conversation?

A.—Yes, sir. His reasons were ample, I have no doubt, in his own judgment, and certainly they were in mine. His reasons were ample for the course he pursued, and were amply sufficient to justify him in pursuing the course he did. I presume it is not necessary to detail them here, nor are they of any possible moment to anybody. He did not feel satisfied with the nominations that were made by caucus. He did not consider Mr. Shafter a representative Republican. I didn't. And he didn't favor any union between the Republicans and the Democracy. I didn't. So far we agreed; and so far as I tried to use any

influence with him at all, I state most emphatically that I didn't think—it was, that he could not excuse himself for a Democratic candidate. It was talked—I don't know whether with any sort of foundation—I don't know whether with any truth or not—that there were a number of Republicans that would vote for the Democratic candidate. I didn't think there was anything to justify such a vote. It was that principally that I talked to him.

Q.—Those were the reasons urged by Mr. Staples, principally, in your presence?

A.—I don't know that that was mentioned. I think Mr. Staples' argument went more to the point—that the people had pronounced for Mr. Booth, and his election would give the greatest general satisfaction. I think that was the point made by Mr. Staples.

Mr. Amerman—Mr. Phelps, do I understand that you were present at the interview between Senator Finney and Mr. Staples?

A.—Yes, sir.

Q.—I believe that is in testimony—in the evidence before this committee rather—that at that interview Mr. Staples not only, but yourself, urged Mr. Finney to vote for Governor Booth?

A.—I think it is an error, so far as any statement that I at that time urged Senator Finney to vote for Mr. Booth. Mr. Staples certainly did urge him to do it. I had stated clearly to Mr. Finney before that time, that if any attempt was made to carry the Republican vote to a Democrat, that I should vote for Booth, in his condition; and I had heard him say prior to that time, that, under such circumstances, he would do it.

Q.—I understand, also, Mr. Phelps, that you say in the conversation with Mr. Finney that you didn't consider Mr. Shafter a representative Republican, as between Mr. Shafter and Governor Booth. Who was the representative Republican, in your opinion, of the Republican party?

A.—Well, I don't consider that either one of them was very much the representative of the Republican party, for Booth's defection from the Republican party was later simply. I know Mr. Shafter very well, and I am not aware that he has said or written a word in favor of the Republican party in ten years. I understand that he was prominent in the organization of the Greeley party. I don't consider such a man a representative Republican; nor did I consider Mr. Booth one at the time he was elected to the Senate.

Q.—I don't understand you to charge, Mr. Phelps, that Mr. Shafter was prominent in the Greeley movement, except from mere hearsay?

A.—That is my information; my information is that he voted for him also. I don't consider such a man a representative Republican.

Q.—I also understand, Mr. Phelps, from your testimony, that so far as any undue influence was concerned in relation to changing of Senator Finney's vote from Shafter to Booth, that you have no knowledge of anything of the kind being brought to bear upon Senator Finney?

A.—No, sir, I have no knowledge; and so far as I can reply to it, I am satisfied there was none.

TESTIMONY OF MR. CONROY—(RECALLED.)

“I hereby certify that I have served a copy of the within subpoena on William Nugent McNamara, at the City of San Francisco, at six

o'clock and sixteen minutes p. m., February seventh, eighteen hundred and seventy-four, by delivering him a copy of the affidavit, showing him this, the original, and notifying him of the contents of the same.

"WILLIAM M. CRUTCHER.

"By M. C. CONROY, Deputy Sergeant-at-Arms."

That is the subpoena.

Mr. Norton—What did he say, if anything, when you served the subpoena upon him, Mr. Conroy?

Answer—He stated that he had not any money to get here, nor means, and wanted to know if I would pay his expenses up here, and while he was here, and back again. I told him that I was not authorized to do that, but that if he had not any money to get here that I would furnish him, out of my own means, sufficient to take him to Sacramento. I tendered him enough money out of it to come, or I told him to be at the boat on Monday morning (this morning), and he could come along with me, and the State would defray his expenses both ways so far as mileage was concerned, and I believed would pay him what was reasonable for his time, or pay him in the way of mileage. He said he didn't propose to answer. I said then you subject yourself to arrest. I have no power to arrest you, but said I thought that would be the result of it if you are not there. Well, we talked along in that strain for, perhaps, ten or fifteen minutes. My son was present and heard it all; he is a young man in his twentieth year; and I advised him—at least, he had better not fail. I forgot to ask him his full name, and I went back to his house after going about a block from there, and went up stairs in his room and met his wife and himself there, and he wrote his name out on that card (handing Mr. Norton the card.) There is his name—"William Nugent McNamara, 44 Third street." I told him again he had better not fail, and I had to go away then. I expected to go to Redwood City, and be back Sunday night; but I could not get back, and I sent my son to the boat to tender him the money, if he made his appearance; and they reported when I got back home from San Mateo, to-day, that he did not appear. He said that he didn't mind being arrested, and was willing to come if he had the means, and was willing to go and find a broker that would discount his claim against the State before it accrued. He wanted me to find a broker who would discount his claim against the State before it accrued.

Q.—You offered him enough money to pay his expenses here?

A.—Yes, sir; sent five dollars of money myself down, to pay it and his breakfast, and he was not there, and I offered him that that evening. I didn't have but two dollars more in my pocket. I had no money belonging to the State.

Mr. Amerman—Mr. Chairman, on behalf of the committee, I move that the committee report this matter to the House to-morrow morning, and ask for an order of arrest for Mr. McNamara.

Mr. Norton—I second the motion.

The motion was carried.

TESTIMONY OF JOHN R. EARDLEY.

JOHN R. EARDLEY, called, sworn, and examined:

The Chairman—You will please state to the committee, Mr. Eardley, what you know in regard to the transaction between Mr. Carter and Mr. Brown?

Answer—All I know about it, gentlemen, is that myself and son were sitting in the office at the desk one morning—I don't know what day it was—and Mr. Carter and Mr. Brown came in. Understanding that there was some private business, I took my hat and walked out. That is all I know about it.

Mr. Curtis—Where do you reside, Mr. Eardley?

A.—I reside in Sacramento now, sir.

Q.—How long have you been living here?

A.—Since the commencement of the Legislature.

Q.—Where was your home before that?

A.—Gilroy, Santa Clara County.

Q.—What time did you come up here, Mr. Eardley?

A.—The Friday before the commencement of the session.

Q.—What brought you here, Mr. Eardley—what business?

A.—I came here to seek an office.

Q.—What office was it?

A.—The office of Enrolling Clerk, sir.

Q.—Did you come here in the interest of any gentleman connected with the Senatorial election?

A.—No, sir.

Q.—Did you take any active part in that contest?

A.—None whatever, sir.

Q.—You was a candidate for Enrolling Clerk?

A.—Yes, sir.

Q.—When did you become acquainted with Mr. Brown?

A.—After I arrived here.

Q.—Were your relations intimate with Mr. Brown?

A.—No, sir.

Q.—You were in his office through the day before the election of Senator?

A.—Yes, sir.

Q.—The day before the election was made?

A.—Yes, sir.

Q.—What business had you there that day, Mr. Eardley?

A.—I was there simply to do a little writing for myself.

Q.—You say that Mr. Carter and Mr. Brown came in together?

A.—Yes, sir—no, sir; Mr. Carter came up alone. Mr. Brown was in the office at the time.

Q.—Did you know that Carter was coming there.

A.—I didn't, sir.

Q.—I understood you to say just now, that you understood there was to be some private business; how did you understand that?

A.—Mr. Brown told me that a friend of his was coming up. I didn't know who it was. He said he had some private business with him, and when the gentleman came in, I took my hat and walked out.

Q.—Did he tell you he wanted you to leave the office when the gentleman came in?

A.—He intimated to me that he had a little private business.

Q.—Did he request you to leave?

A.—Yes, sir.

Q.—Requested you to leave the room?

A.—Yes, sir.

Q.—Was anybody else in the room?

A.—No one but my boy.

Q.—Did the boy leave?

A.—Yes, sir.

Q.—At whose instance did he leave?

A.—At mine, sir.

Q.—After Mr. Brown said to you that he had some private business with a friend, you took up your hat, and you and the boy left?

A.—Yes, sir.

Q.—Do you know what that private business is?

A.—I don't know, sir.

Q.—You don't?

A.—I have no knowledge whatever, sir.

Q.—Was there any agreement between you and Mr. Brown in reference to your candidacy for the office of Enrolling Clerk?

A.—Yes, sir.

Q.—What was it?

A.—It was that I receive the first position in the office—that I have one half the appointments in the office; the naming of them.

Q.—You were to receive one half of the pay in the office, and were to have one half of the appointments?

A.—He did promise me that, until I should receive my appointment in the office, that he would furnish me one half of his pay, or one half of his salary, until the appointment; but I released him from that promise afterwards, so it never was fulfilled.

Q.—Well, what was the condition on which he was to confer these favors upon you?

A.—The condition was, that one or two of my friends—several of my friends—should vote for him for Enrolling Clerk.

Q.—You were a candidate for Enrolling Clerk, and so was he?

A.—Yes, sir.

Q.—There was a condition further, that you should withdraw from the contest?

A.—The condition was, that if I didn't develop sufficient strength for the office, and was obliged to withdraw, that I should withdraw in his favor.

Q.—There was no condition about that. You would be forced to withdraw?

A.—Well, I didn't withdraw until I found that I could not get the office.

Q.—Then you made the best bargain you could with Mr. Brown, when you found that you could not be elected yourself?

A.—Yes, sir.

Q.—And you were to share one half the profits of the office?

A.—Yes, sir; to share one half the profits of the office, and receive the first position.

Q.—What was the first position?

A.—The first appointment.

Q.—He was to give you the first appointment, and then you were to have half the appointments from that time out.

A.—Yes, sir.

Q.—You say you released him from that obligation?

A.—Yes, sir.

Q.—Are you now employed under him?

A.—I am now employed under him.

Q.—You are there occupying the position that you were to occupy according to agreement?

A.—Yes, sir.

Q.—Do you know of any money being used in this Senatorial election?

A.—None whatever, sir.

Q.—Do you know of any promise of office or reward?

A.—No, sir.

Q.—In the Senatorial election?

A.—No, sir; I was simply interested in the Enrolling Clerk's position; nothing more.

Q.—You say you afterwards released Mr. Brown from the agreement you had made with him?

A.—Yes, sir.

Q.—I understood you awhile ago that that agreement was being carried out, and that you had the first appointment?

A.—I said I had released Mr. Brown from the payment of one half of the salary.

Q.—What was the consideration, and why did you release him from that?

A.—Because I became satisfied, by consulting with several of my friends in the House, that it was illegal, and by their advice I did so.

Mr. Norton—Where did you and your son go when you left the office that morning?

A.—We went down in the Assembly chamber.

Q.—How long had you been alone there in the office when Mr. Carter came in—you and your boy?

A.—I don't know.

Q.—Had Mr. Brown been there that morning before?

A.—Yes, sir.

Q.—How long was he gone before he came back?

A.—He was not more than five minutes, I think.

Q.—About five minutes he was out?

A.—Yes, sir?

Q.—When he came back did he tell you that a friend had arranged to meet him there on special business?

A.—He told me a friend of his was coming up on a little private business.

Q.—On a little private business?

A.—Yes, sir.

Q.—Was that just the language he used?

A.—Well, I could not say positively; it was to that effect; that was what it meant.

Q.—And the friend came up?

A.—Yes, sir.

Q.—What did Mr. Carter say when he came in; you and Mr. Brown were sitting there?

A.—He didn't say a word, sir, while I was there. As soon as he came in I got up and walked out.

Q.—Well, you didn't walk out immediately?

- A.—Yes, sir, as soon as he came in. I think Mr. Brown intimated to me that that was the friend he spoke of to me.
- Q.—How did he intimate to you?
- A.—By speaking to me.
- Q.—Well, then you waited until he spoke to you?
- A.—Well, his coming in and my getting up were simultaneous.
- Q.—Well, what did he say?
- A.—Who?
- Q.—Mr. Brown?
- A.—Well, I can't remember, because I paid no particular attention to it.
- Q.—As near as you can remember then?
- A.—It was to the effect, this was the friend he had spoken to me about.
- Q.—Your boy didn't start then?
- A.—He went right out with me.
- Q.—You say you told him to go out with you?
- A.—Yes, sir; the boy was sitting writing at the desk.
- Q.—When Mr. Brown stated that this was the friend he expected there on private business the boy didn't get up, did he?
- A.—No, sir; because the boy was not sitting alongside of me; he was sitting at another table.
- Q.—Was he within hearing distance?
- A.—Yes, sir.
- Q.—Did you go over to where he was—to the boy?
- A.—No, sir.
- Q.—Had Mr. Carter taken his seat when you went out?
- A.—I cannot tell; I don't know; I didn't notice.
- Q.—What was the condition Mr. Brown was in? Did he appear excited, or was he cool and calm?
- A.—None whatever, sir; just as usual.
- Q.—How long did you remain away before you came back?
- A.—Not more than ten minutes.
- Q.—Did you come up the same flight of stairs you went down?
- A.—Yes, sir.
- Q.—Did you meet anybody on the way?
- A.—No, sir.
- Q.—Do you know which way Mr. Carter and Mr. Brown came up, when they came up?
- A.—No, sir. When I went back to the office, Mr. Brown sat at the desk writing.
- Q.—And you was gone not more than ten minutes?
- A.—I think not.
- Q.—How did you come to remain away only ten minutes, when you knew he had a friend in the office about to transact private business with him?
- A.—I went up to see if they had got through, and opened the door and found they had.
- Q.—Didn't you consider that a little indiscreet, to rush back so quickly?
- A.—No, sir, I didn't; I didn't know what the business was—had no idea, and didn't know how long it would continue, and I was doing a little writing there, and was anxious to finish it.
- Q.—And when you got back Carter had finished?
- A.—Yes, sir; Mr. Brown was alone.

Q.—Sitting there alone?

A.—Yes, sir.

Q.—Did anything pass between you as to the interview between him and Carter?

A.—Not a word, sir.

Q.—He told you nothing about it?

A.—Nothing whatever.

Q.—Has he ever said anything to you about it since?

A.—Not a word, sir.

Q.—Has he said anything to you about it since this investigation commenced?

A.—Not a word, sir.

Q.—You never have had any conversation with Mr. Brown about it?

A.—No, sir; I didn't know when I saw the account in the paper that a gentleman and his boy were in the office; I had forgotten entirely the circumstance.

Mr. Amerman—Mr. Eardley, at the time Mr. Brown told you that he had a friend who was coming up there, were you employed in the office?

A.—No, sir.

Q.—How many men are employed in that office at the present time?

A.—Two, besides Mr. Brown.

Q.—Yourself and another?

A.—Yes, sir.

Q.—Mr. Brown has said nothing to you in relation to this investigation since it commenced?

A.—Nothing but what has appeared in the papers.

Q.—Well, will you be kind enough to tell this committee all that Mr. Brown has said to you since this investigation has commenced?

A.—I could not do it, sir.

Q.—Well, the substance of it?

A.—Well, the substance of it is, with regard to the matter between him and Mr. Carter, that he had made an expression to the effect that if he had two thousand dollars in gold notes, that he would be willing to pay it to insure the election of Governor Booth. That is all I have heard him say. I have heard him repeat that frequently; that was what he said.

Q.—I understand you to say, Mr. Eardley, that you released Mr. Brown from his provision to share half of the profits, or of the income of the office with you?

A.—Yes, sir.

Q.—What time did you release him from that promise; how long after Mr. Brown was elected Enrolling Clerk was that promise made? Was this relinquishment on your part made?

A.—As near as I can judge, it is about a month ago.

Q.—How long after Mr. Brown was elected Enrolling Clerk?

A.—Well, it would have been three or four weeks.

Q.—Before you had released him from that promise, Mr. Eardley, had you endeavored to enforce the promise made to you by him?

A.—I had become fearless that Mr. Brown wouldn't perform his promise with me.

Mr. Norton—Fearful, you mean?

A.—Fearful, I mean, that Mr. Brown wouldn't perform his promise with me; but he had no opportunity of doing that. There were no appointments authorized in the office, and consequently he had not had the opportunity of making any appointment as he had promised me.

Q.—Is it or is it not the fact, Mr. Eardley, that subsequent to the promise made to you by Mr. Brown, to share one half of the profits of that office, you ascertained from some party, that so far as Mr. Brown was concerned, that the entire receipts of the office, accruing to him, had been promised?

A.—I had been informed so by several parties.

Q.—Had that anything to do with you relinquishing him from his promise made to you?

A.—No, sir.

Q.—You did that—the relinquishment, voluntarily?

A.—I did that voluntarily.

Q.—Without any consideration whatever?

A.—Yes, sir.

Mr. Coggins—Mr. Eardley, when Mr. Carter came in did you know who he was?

A.—No, sir.

Q.—Didn't know he was a member?

A.—No, sir.

Q.—Before you left the Assembly chamber to return, did you see the same man enter the Assembly chamber?

A.—No, sir; I didn't know Mr. Carter at the time.

Mr. Norton—You not having business there in that office, before you had been placed there as deputy, I am a little curious to know why you rushed back on a private conversation. I want you to explain that to the committee?

A.—I was doing some work in the office. I was writing some letters.

Q.—Mr. Brown had taken the precaution to tell you before Mr. Carter came up—he also told you when Mr. Carter came up—that this was the friend that he was about to transact private business with?

A.—Yes, sir.

Q.—How was it that you returned in ten minutes back to the very place where you left him?

A.—Because I was doing some writing. I went back to finish my writing.

Q.—You had reason to believe, then, that the business that Mr. Carter had could be transacted in ten minutes?

A.—I didn't know how long it was going to transpire. I simply went up to see if it was over.

Q.—Was your business so urgent as to require such hot haste in you to get back there? What were you doing?

A.—I forget what I was doing; writing some letters, I think.

Q.—Business letters?

A.—Yes, sir.

Q.—You are now back to the point of your sharing the profits. Up to the time you were appointed, did you or did you not share the proceeds of the office with Mr. Brown?

A.—I did not, sir.

Q.—Did he refuse to fulfill his word with you in that regard?

A.—Whenever I asked him—

Q.—Answer the question. Did he refuse to fulfill his promise with you in that regard—to fulfill it?

A.—To pay me one half?

Q.—Yes, sir?

A.—No, sir.

Q.—He didn't?

A.—He paid me money whenever I asked him for it.

Q.—He did pay you money when you asked for it?

A.—He paid me for the work I did in the office.

Q.—At what rate did he pay you?

A.—Well, at no particular rate.

Q.—Did he pay you by the day or by the folio, for your writing?

A.—Well, he paid me by the month.

Q.—How much a month?

A.—He gave me during two months—I think he paid me a hundred dollars; I think it is.

Q.—During the two months?

A.—Yes, sir.

Q.—How long have you been in there as a deputy?

A.—Four days, I think, last week; he appointed me last week but one.

Q.—Did he pay you one hundred dollars in installments, or all at once?

A.—A little at a time; just as I asked him for it.

Q.—Did he pay you all the money you asked him for—your claim here for two months service?

A.—The first few days in the office——

Q.—He was getting eight dollars a day—drawing that from the Contingent Fund?

A.—Yes, sir.

Q.—And you were to have half of that?

A.—That was what he first promised me, until those friends I spoke to on the floor advised me to drop the matter.

Q.—Well, that was a month?

A.—A month, or three or four weeks.

Q.—Well, one hundred and twenty dollars—a month's pay—would be due you for thirty days service, at four dollars a day, if he had kept his word with you?

A.—Well, if I had not released him.

Q.—Well, you didn't release him until the four weeks expired. You didn't release him until you talked to your friends, and that was four weeks?

A.—Well, I never at that time understood when he paid me any money, that he should give me any more than he paid me.

Q.—When was it that you learned his pay had been pawned, as you state?

A.—Well, it was perhaps three or four weeks ago.

Q.—Was that before you had the talk with your friends, and they advised you to release him?

A.—No; that was afterwards. When I had the talk with regard to the salary question was before I heard anything of the circumstances of pawning which you speak of.

Mr. Brown—Were you not induced to release me from my promise from the fact of having represented to me, at the outset, that it would not be more than one or two weeks before I would get an assistant?

A.—Yes, sir. I did tell *Mr. Brown*, at the commencement of the session, that at every previous session that I had been acquainted with, there were assistants and Enrolling Clerks appointed within the first two weeks of the session.

Q.—And did you not state to me that I wouldn't have to divide my salary with you beyond a week or two?

A.—Yes, sir, I did.

Mr. Amerman.—Will you tell the committee at what particular time since the session of the Legislature commenced, that you made this arrangement with Mr. Brown about dividing the salary.

A.—At what particular time; with reference to the commencement of this session?

Q.—Yes, sir?

A.—I think it was on the Tuesday before the Wednesday that the election took place.

Q.—The session commenced on Monday, did it not?

A.—Yes, sir; but the election took place on Wednesday.

Q.—And you made this arrangement, I understand, with Mr. Brown, on Tuesday?

A.—Yes, sir, on Tuesday.

Q.—The second day of the session?

A.—Yes, sir.

Q.—Mr. Eardley, did you, from that time until the time that you released Mr. Brown from his engagement—were you, or were you not, under the impression that you were to receive one half of his salary?

A.—I was until I spoke with these friends of mine.

Q.—And that, I understand you to say, was about a month afterwards?

A.—Yes, sir; about three or four weeks; I don't know exactly what time.

Q.—And during all that time you remained under the impression that Mr. Brown would carry out his agreement with you, so far as the division of the salary was concerned?

A.—Yes, sir.

At twenty-five minutes past ten P. M. the committee went into executive session.

A communication was read which had been sent to Mr. Carter, from an unknown party, concerning Dick Brown.

At eleven P. M. the committee adjourned until Wednesday at seven o'clock.

FOURTH NIGHT'S PROCEEDINGS.

The committee met at ten minutes past seven o'clock P. M. Present—a full committee.

TESTIMONY OF B. C. NORTHUP—(RECALLED).

Mr. NORTHUP, recalled and sworn:

Mr. Summers—Mr. Northup, this matter has already been stated to you. It is in reference to the same matter. Please answer such questions as the committee may ask you.

Mr. Norton—Have you read the testimony given by Thomas Hughes, with reference to his interview with you, Mr. Northup, about which you testified to the committee?

Answer—I have read a portion of it, sir.

Q.—Have you read the whole of it?

A.—Well, I don't know that I have read the whole of any one article.

Q.—How?

A.—I believe I have read enough of it to satisfy me in regard to it.

Q.—Do you understand from the statement that you have read, that he distinctly contradicted your testimony?

A.—I think he did, in some respects.

Q.—I say, do you understand that he did?

A.—Yes, sir; I say I think he did.

Q.—The committee have been anxious, since hearing the testimony of Mr. Hughes, to give you an opportunity again to testify before them. Has your recollection been refreshed?

A.—Not at all, sir.

Q.—Do you wish to change any part of your statement made to the committee, in any particular?

A.—I don't think that I do, sir.

Q.—Then you still adhere to your former statement?

A.—I see that Mr. Hughes states that he has been acquainted with me since the first of June. I think the man is mistaken there; I don't think that I ever saw the man, to know him, until I was introduced to him in Sacramento.

Q.—It is not with reference to that point in his testimony that I sought to call you back. It was with reference to the particular discussion here in Sacramento, and what occurred at the Golden Eagle Hotel.

A.—I don't think I have any qualifications to make in regard to that—to qualify my statement at all, sir. As near as I can recollect, that was—

Q.—Do you now remember whether it was you, or Mr. Hughes, that spoke about going to Mr. Hughes' room? He says you went from the bar-room of the Golden Eagle Hotel—had been drinking there.

A.—I said, in my former statement, that I was going up the street, and met Mr. Hughes on the steps of the Golden Eagle. I could not swear positively whether we went in and took a drink, before going to his room, or not; but he asked me to go to his room. We might have taken a drink before going up.

Q.—If you took one drink, did you take more than that, at the Golden Eagle Saloon?

A.—I think not; to the best of my knowledge, I think not. I won't swear that I took one.

Q.—You have no distinct recollection about that event, then?

A.—I don't recollect, distinctly, that I took any drinks at all; I might have done so.

Q.—He says that the room was getting hot—a good many were smoking there—and he felt the effects of the liquor somewhat, and he asked you up to his room to smoke, or you asked him up. Did you light any cigars when you got to his room?

A.—I don't think I did, sir.

Q.—Did either one of you?

A.—I don't think we did.

Q.—Would you remember it if you had done so?

A.—I think I should.

Q.—How long did you remain in his room?

A.—I could not say we were there more than—anywhere from ten to

fifteen minutes, probably; not over that. To the best of my recollection, not more than five; it might possibly have been ten.

Q.—Did he immediately broach the subject of the Senatorial contest, after arriving at the room, or had you spoken of that before?

A.—I don't think there was any conversation in regard to it before we went up there.

Q.—Did he close his room door or leave it open?

A.—The room door was closed.

Q.—Was he so intoxicated as to show it much to you?

A.—Well, I thought the old gentleman was pretty well under.

Q.—Was he so much intoxicated as to stagger when he walked?

A.—Well, I don't think he staggered, particularly; I don't know that I noticed his staggering; I noticed it some in his speech.

Q.—He says that he met you since that time, and you had a conversation about it, as I think you also testified that you talked to him, and that you admitted to him that it was all a joke—that you looked upon it as such—grown out of it. Is that true?

A.—I think I stated in my testimony—

Q.—Is that true?

A.—Well, you wait, and I will get to it.

Q.—Answer my question.

A.—I think I told the committee—

Q.—Wait a moment, sir. Answer my question.

A.—Well, sir; I don't know that I can answer that question now.

Q.—For what reason?

A.—Well, I will have to refresh my memory a little with regard to that. If you will let me alone I will tell you.

Q.—You are upon the stand, and are to answer such questions as are put to you. I will put none but legitimate questions to you.

A.—Put your question again.

Q.—He stated, and you admitted, that you met subsequently in the Golden Eagle Hotel, when he was on his way to San Francisco. He said that you admitted to him at that meeting that nothing would have grown out of that talk if you had not both of you been intoxicated, and that he never did try to bribe you to drop Farley.

A.—That is his conversation before he went to San Francisco.

Q.—This is before he went to San Francisco?

A.—Well, sir, there was nothing of that kind transpired between us at that time.

Q.—Has there any such thing as that transpired at any other time between you?

A.—Well, that is what I wanted to tell you, if you had allowed me to tell you; but you would not do it. Now, as near as I can recollect, I can give you the conversation that transpired between us since then.

Q.—Give that.

A.—It has been very short, and to the point, because I have kept away from Mr. Hughes, and did not want to have any conversation with him on the subject at all. I think I met Mr. Hughes, probably, on the day after he came down the last time—coming down through this park here, if I am not mistaken. He spoke to me, and I said—says I: "The probabilities are that we had both been drinking, or there would never have been anything of this kind happened." I says to him: "Mr. Hughes, I don't believe you ever had an intention to really bribe me." I think that is the only conversation that I ever had with Mr. Hughes about the subject since that time—since the Senatorial election—at all.

To the best of my recollection that is the only conversation I ever had with him in regard to the subject of either one of us being in liquor at all.

Q.—And you adhere to your testimony about his making an offer to you in the room there?

A.—Yes, sir. I am not prepared to qualify that at all.

Q.—Three thousand dollars?

A.—He said that I could have two thousand dollars by dropping Farley.

Q.—I believe you said he didn't tell you by what authority he made that proposition?

A.—No, sir; I don't think he did.

Q.—How is it, Mr. Northup, that if you believed Mr. Hughes and his statements at that time, that you subsequently told him that you did not think he intended to bribe you?

A.—Didn't I make my statement here before this occurred, in the first place, that I did not think the old man really knew or thought what he was saying?

Q.—It is upon that ground, now, that you put it?

A.—Yes, sir.

Q.—That he was so intoxicated that he didn't really know what he was doing?

A.—Yes, sir. I still hold to that.

Q.—That stage of intoxication you must have noticed before you went to his room. He seems to recollect what transpired there, don't he?

A.—I haven't had any particular conversation with him about that.

Q.—I mean, on his way to San Francisco, when you had that conversation?

A.—He seems to think he said something there.

Q.—He remembers to have been in the room?

A.—Yes, sir; he seems to.

Q.—And he remembers that you were there?

A.—Yes, sir.

Q.—And that you had a conversation with him there?

A.—Seems to.

Q.—And remembers what you talked about?

A.—It doesn't seem that he does, altogether, by his testimony.

Q.—Did you talk about anything else than of dropping Farley, and getting two thousand dollars or three thousand dollars for it?

A.—No, sir. I have no recollection of anything else.

Q.—You have no recollection of it?

A.—No, sir.

Q.—He says you are the one who spoke about it.

A.—Well, he is a younger man than I am, and his recollection may be better than mine. Old people sometimes lose their recollection.

Mr. Curtis—You don't mean that seriously, Mr. Northup. You ought not to jest when you are testifying.

A.—I do, sir.

Q.—Do you mean that seriously—that he is a younger man than you are?

A.—Yes, sir; I mean that seriously.

TESTIMONY OF THOMAS HUGHES—(RECALLED.)

THOMAS HUGHES, recalled:

The Chairman—You will please state to the committee, or answer any such questions as they may propound to you, in regard to this matter touching what has been said to you before.

Mr. Curtis—What is your age, Mr. Hughes?

Answer—I was fifty last November—the eleventh of November.

Q.—When did you first become acquainted with Mr. Northup?

A.—I think about last June, sir, at the county convention.

Q.—Were you a member of the convention?

A.—Yes, sir.

Q.—The convention that nominated him?

A.—Yes, sir.

Q.—Did you meet him afterwards in the canvass?

A.—In the canvass I met him, perhaps, two or three times.

Q.—Then you were acquainted with him before you came to Sacramento City?

A.—Yes, sir. I might have met him a half a dozen times. I don't recollect, you know, the precise number of times I met him in the campaign.

Q.—Were you engaged in the campaign on the same side of politics that he was?

A.—I was, sir.

Q.—Then you assisted, so far as a member of the party generally assists, at his election, did you?

A.—I did, sir.

Q.—I think you stated to the committee the other night, Mr. Hughes, that you were not so drunk but what you knew what you were about?

A.—Well, I think I was not, sir; I think I was not.

Q.—Where did you stop, Mr. Hughes, when you were down here during the Senatorial contest?

A.—I stopped at the Golden Eagle Hotel.

Q.—Did you visit any places in the city?

A.—I visited all around—the saloons and hotels—I think.

Q.—I understood you to testify before the committee, the other night, that you were here in the interest of Mr. Casserly, first?

A.—I was here in my own interest first.

Q.—And his in the Senatorial contest?

A.—Yes, sir.

Q.—You were friendly to Mr. Casserly?

A.—Yes, sir.

Q.—Next, I think, to Mr. Finney?

A.—Yes, sir.

Q.—That is, only to the nominee of the Democratic caucus, no matter who he might be?

A.—Yes, sir.

Q.—Did you visit a place on the corner of Second and J streets, known as the "Sacramento Club-room?"

A.—No, sir.

Q.—Did you visit the Orleans Hotel?

A.—Yes, sir.

Q.—Were you there at night?

A.—At night?

Q.—During the Senatorial contest, were you there at night?

A.—A good many times.

Q.—Were you there in the day-time?

A.—Yes, sir.

Q.—Were you acquainted with Thomas Nosler?

A.—Yes, sir.

Q.—Where did you make his acquaintance?

A.—Here.

Q.—Did you see him at the Orleans Hotel many times?

A.—Several times.

Q.—Did you ever go there to see him?

A.—No, sir.

Q.—Did you ever inquire for him there?

A.—No, sir.

Q.—Did you ever meet him there?

A.—Yes, sir, several times.

Q.—Did you ever have any conversation with him about the Senatorial contest then going on?

A.—No, sir.

Q.—Did you ever talk with him about it?

A.—No, sir.

Q.—Do you know which side Mr. Nosler was on, or what particular gentleman he was interested in?

A.—No, sir; only from what I heard. I heard and believed that he was one of Booth's friends.

Q.—Did you ever ask him anything about it?

A.—No, sir.

Q.—I understood you to say to the committee the other night, that you didn't know of any improper means having been used in the Senatorial contest for any person?

A.—I did not, sir.

Q.—I think I also asked you your reason why you should have left Mr. Farley?

A.—Yes, sir.

Mr. Norton—Mr. Northup still reiterates his statement that you offered him two thousand dollars, in your room, at the Golden Eagle Hotel, to drop Farley.

A.—That is not true, sir—that is, I have no recollection of any such thing, and I am certain it is not true. Mr. Northup, however, said I was very drunk getting into bed; but I think I never was drunk enough yet—you understand, as I told you the other night—to toot my horn the other way.

Q.—You still persist in that?

A.—Yes, sir, I do.

TESTIMONY OF A. G. ESCANDON.

A. G. ESCANDON, called, sworn, and examined:

The Chairman—Mr. Escandon, I will state that the object of this investigation is to ascertain the facts, if possible, in regard to the alleged

bribery and corruption against the honor and honesty of undesignated members of the present Legislature, in the late Senatorial contest. If you know anything in regard to that, please state it to the committee, or answer any question that may be asked you by the committee.

Answer—Well, I suppose I can make a statement of what occurred three or four days before the election of Governor Booth.

Question—Just speak out so that the committee can hear it, Mr. Escandon.

A.—There was a young man, three or four days before the election—a young man who came from below—Mr. Jimenez, a Spaniard, he came along with me. He was a very strong Republican, and has lived with me all this time. And two days before the ballot came off, he said, Mr. Escandon, I wish you would vote for Mr. Booth. The people in the south would like him better than Mr. Casserly or any other man, said he, and I think you will get a good position, if you vote for him. I said, I didn't come here to get a position. I have got a position already. I am a member of the House, and I came here to vote for my man. I am a Democrat, and I was going to vote for it—whatever my party's nominees are. I am going for all my nominees. He came to me the next night, and bothered me about an hour upon the same subject, and then I met Mr. Pacheco, and Mr. Jimenez left, and Mr. Pacheco asked me, as a favor—he said to me, Mr. Escandon, you are the only Spaniard in the House, and I wish you would do me the favor to vote for Mr. Booth, if you can do it consistently. I said, Mr. Pacheco, I can't do it. You will never be Governor by my vote. You know I am a strong party man, and I am going for my man, for Mr. Farley. Well, he says, all right, all right, I don't want you to go back on that, all right. And then in the night—the same night, about nine o'clock—Mr. Jimenez came to me, and begged me to go for Mr. Booth. He said that he was a nice man, and he was a good man. I told him, I know that he is a good man, and I know that he is a gentleman; I know he is a good man and a gentleman. Well, he insisted on it till twelve o'clock, and then I told him I am going to bed; then he commenced to talk again about the same subject, and I told him: "If you bother me any longer about this, you had better leave the room. I want to sleep. You will never get anything from me." Well, he left, and went to sleep in some other place that night. The next evening he says: "Mr. Escandon, you must not get mad with me; we were friends, and I know you are not a business man." He said, "there is a business in these things—there is plenty of business; I tell you, if you will promise to me that you will—" "I will what?" I says. "Well," said he, "that you will vote for Governor Booth; I can get some money for you, and money will do you good." "Well, money for what?" I said. "Well," he said, "if you will vote for Booth, I will introduce you with gentlemen to-night, if you will vote for him." I said, "I didn't come here to sell my vote." He said, "it is not sale, it is business; nobody can find it out, and you will get five or ten thousand dollars." "Well, sir, I don't want to see that man, and I don't want to see you any more. Don't you introduce me to that man, because, if you do it I will expose him to-morrow in the House, and will expose you, too." And, after that, he didn't bother me any more. This Mr. Marcello A. Jimenez lives at San Buenaventura now. And, four or five days after the election, he would go to some friends of mine in the House. I never say a word to nobody—never. Two or three days after Mr. Booth was elected, he go right in this city, in a private house, and he tell a lady, or two gentlemen, I mean—Mexican;

one is a Mexican, and the other, I don't know what he is—his name is Barrer—William Barrer; he says: "Mr. Escandon is no man to do business." He says, "I can get money if he will vote. If he was inclined to vote for Booth, I know he can make five or ten thousand dollars." He says: "That man too honest to do business of this kind." That is the only thing I know about it—or whatever you call it.

Mr. Norton—Mr. Escandon, what is that man's name—the Spaniard that came to you? Speak it as plainly as you can, so that the reporter can get it.

A.—Jimenez. I can put him on a piece of paper.

Q.—You put it on a piece of paper.

[Witness writes "M. C. Jimenez."]

Q.—How many days before Mr. Booth was elected, Mr. Escandon, before he came to see you—this Spaniard?

A.—About three or four days before; but when he came to ask me it was two days before the election.

Q.—That was when he pressed you so?

A.—Yes, sir; when he pressed me that night.

Q.—Where were you that night, Mr. Escandon, at the time you told him he would have to go away if he didn't stop talking; you would have to show him the door?

A.—Right in my room, in the Empire House.

Q.—Was there anybody else with you in the room, or were you there alone—you and this man?

A.—He and me.

Q.—How long had he been with you that night, in the room, pressing you?

A.—Well, we had been talking two days.

Q.—I mean this night.

A.—O, 'till I was ready to go to bed.

Q.—Did you go together?

A.—Oh, yes, sir; we always eat breakfast, supper, dinner, together, and sleeping there.

Q.—Oh, he had taken up his quarters with you?

A.—Yes, sir.

Q.—Stopping at the same house, and sleeping with you?

A.—Yes, sir.

Q.—Well, at the first conversation you had he was a little mild, he didn't draw it quite so strong that night?

A.—No, sir; he had been working about it.

Q.—Working around it?

A.—Yes, sir; I told him he had better leave me alone, I cannot sleep sound, you bother me too much.

Q.—He didn't give you a chance to sleep of nights for his working you?

A.—No, sir.

Q.—Had you ever known this Spaniard—this gentleman, before?

A.—Oh, yes; I have known him this four or five months. I knew him two or three years ago, but only seen him once or twice.

Q.—But was not intimately acquainted with him?

A.—No; not until three or four months ago.

Q.—Where does he live now?

A.—At San Buenaventura. He is a Notary Public now. He was appointed the other day.

Q.—Has he been appointed since?

A.—Yes, sir.

Q.—Has he been appointed Notary Public since the election of Governor Booth to the United States Senate?

A.—Yes, sir.

Q.—What friends did he have, do you know, that aided him in getting the appointment?

A.—I was one of them.

Q.—You were one of them?

A.—Yes, sir; before all these things transpired.

Q.—You asked for his appointment before all these things transpired?

A.—Yes, sir; Governor Pacheco and me went to Governor Booth about it, and asked for it before this happened.

Q.—You didn't know the real character of the man at the time you interceded to get him appointed?

A.—No, sir; I didn't know that.

Q.—You didn't know that he would stoop to a thing of this kind?

A.—No, sir; I never thought about it.

Q.—Have you since that time ever notified the Governor as to what transpired?

A.—No sir; I never did; never spoke to anybody in the world.

Q.—You kept this matter to yourself?

A.—Yes, sir.

Q.—You were annoyed a good deal about it, as he was persistent in his efforts to get you to vote for Governor Booth?

A.—Yes, sir.

Q.—How much money did he say you could make?

A.—From five to ten thousand dollars.

Q.—From five to ten thousand dollars?

A.—Yes, sir.

Q.—Did he tell you where this money was to come from?

A.—No, sir. He told me he would introduce me with some gentleman that night with the money. He would meet me if I would vote for Mr. Booth.

Q.—Did he tell you what gentleman he would introduce you to as the gentleman who would give you the money?

A.—I told him no. I didn't want to know the man. If he told me the name, or introduced the gentleman to me, that I would expose him in the House next day; and I told him I didn't want to have anything to do with him.

Q.—When you told the Lieutenant Governor, Pacheco, how you felt about this contest, that you were a friend of Farley's—a political friend—and stood by your party, and wouldn't have anything to do with it, he treated you as a gentleman, didn't he?

A.—Well, he said: "I want you to keep your honor, Mr. Escandon."

Q.—Was this other gentleman present at the time?

A.—He was present at the time I answered this to Mr. Pacheco.

Q.—Mr. Pacheco answered you in a gentlemanly manner?

A.—Yes, sir. He said: "You are the only Spaniard in the House, and I would like to have you vote for Mr. Booth, and Mr. Booth is a gentleman."

Q.—He offered you no such inducement to vote for him.

A.—No, sir.

Q.—Didn't hint at such a thing as an inducement?

A.—No, sir. If I could do it conscientiously, he would like to have me do it.

Q.—What did you answer?

A.—I answered Mr. Pacheco, and Mr. Jimenez was there: "You say I am your friend, and you don't want to see your friend disgrace himself by voting for Mr. Booth."

Q.—Then it would be a disgrace to you?

A.—Yes, sir; a dishonor to me, and he said that was all right.

Q.—He said it was all right. He could not ask you to do that thing?

A.—Yes, sir; he talked to me very friendly about it, two or three times.

Q.—Were Governor Pacheco and this other gentleman together much during the contest?

A.—No, sir; very seldom.

Q.—He stayed by you, and stuck by you like a leech, didn't he?

A.—Yes, sir; come by me all time.

Q.—Did he come into the house during the day-time?

A.—Yes, sir; he was poor, and lived with me.

Q.—He was not a man of means, then?

A.—No, sir; he was a very poor man.

Q.—When he talked about five or ten thousand dollars, it was quite a sum of money for this man to talk about?

A.—Yes, sir, and he said: "If I was in your boots, I would do it in a minute." He said, "I wish I was in your boots; I would do it in a minute."

Q.—He wished he was in your boots? I don't really understand, Mr. Escandon, what parties he told in town here—where they were located?

A.—The parties live on Second street, I think at J and K—Mr. Bauer. He is very well known here. It is number forty-seven.

Q.—I mean the name of the place?

A.—Mr. Jim Bauer. He used to be in the fire company. He is a one-eyed man.

Mr. Norton—He told him?

A.—Yes, sir. I don't know the word he used—"d—n fool; Escandon was no business man."

Q.—Not a business man?

A.—Yes, sir. "He had a chance to make money, and he didn't do it; he is a d—n fool." And that is the way Mr. Bauer and this other gentleman find it out, because I never told nobody anything about it, even Mr. Pacheco. I wouldn't tell him, and I can tell him most anything; but never would say about that anything to him or nobody else.

Q.—How long did the man—this Spaniard—stay with you, and room with you, Mr. Escandon, after he made you this offer?

A.—Oh, he stayed three or four weeks—four weeks.

Q.—He did?

A.—Oh, yes, sir; he stayed until three weeks ago.

Q.—Why was it, and how was it, Mr. Escandon, that you allowed a man of that character, after he had made known his purposes to you by an explicit offer to bribe you—how did you allow him to stay with you, and you feed him and take care of him?

A.—Oh, sir, I got a humane heart, and if I know there is bad man can't do anything, I got tender heart, and help him; but I always get rid of him as soon as I can.

Q.—You got rid of him as soon as you could?

A.—Yes, sir; in a gentlemanly manner.

Q.—How is it, Mr. Escandon, that you didn't come to your brother members of the House, and report the man to them in the Assembly?

A.—Well, I didn't suppose it was my duty to come there and tell about it, though he never tell me to keep the secret there; but I was ashamed to say anything about it.

Q.—You were ashamed to acknowledge it of your own countryman?

A.—Yes, sir. Some gentleman come to me, and tell me.

Q.—Didn't you feel, he being a countryman of yours, and most of the members here being Americans, that you hated to acknowledge it on that account?

A.—No, sir. He is not a countryman of mine. I am from Spain, and he is from Chile.

Q.—How was it that he sought you out, then, as an instrument to be used, you being against Booth, and in favor of Farley, if you were not on terms of familiarity with him when he came here—friendly terms?

A.—Well, I know the time he came here that he would work with any member to try to elect Mr. Booth. I know he was friendly to Mr. Booth, if he could.

Q.—What reputation does he bear in the neighborhood in which he lives, for truth and veracity, and honesty and integrity?

A.—Well, they always have a good deal of faith in him. I never heard anything bad of him.

Q.—They all have a good opinion of him?

A.—Yes, sir.

Q.—This is the first scrape that you ever knew of him being in?

A.—I always knew him in a gentlemanly way; never see anything wrong of him; and I suppose some of his friends tell him, you help us, and work for Mr. Booth.

Q.—Now, let us get back. Did he tell you it was any man in this city that would give you the money if you would consent to vote for Mr. Booth?

A.—He didn't mention what city; but he said he would introduce me to a man that night.

Q.—Did he tell you where the man was?

A.—No, sir.

Q.—But you, of course, inferred from his talk, that he was then in the city.

A.—Yes, sir; that is what I inferred. That was the time I told him I didn't want to see him, and didn't want to know him; and if he or any other person came to me and tried to bribe me in that way, that I would just report them to the House.

Q.—Did he pretend that Governor Booth knew anything about it?

A.—No, sir; never mentioned Governor Booth, only that he would like to see him succeed; that was all.

Q.—He would like to see him succeed, and was rather working to aid you to get five or ten thousand dollars for you for selling your vote?

A.—Well, I suppose that was his intention.

Mr. Coggins—Mr. Escandon, you say that you had indorsed him for this appointment previous to this attempt?

A.—Yes, sir.

Q.—Had you ever signed any written indorsement, or spoken verbally to the Governor in regard to him?

A.—I spoke verbally to the Governor about him. Mr. Pacheco and myself went there to see the Governor for him.

Q.—Had you signed any written indorsement of him?

A.—No, sir.

Q.—Did you ever inform the Governor, or any of his friends, that you had ever had any reason to change your opinion of his character?

A.—No, sir, I never did.

Q.—Do you know whether the Governor had any information between the time of your indorsement and the time of his appointment—any evidence which would induce him to withhold the appointment?

A.—No, sir; I think the Governor knew nothing about it.

Q.—Had he the indorsement of any members of the Legislature that you know of?

A.—No, sir.

Q.—What had been his politics previously?

A.—Republican. Well, he came over here, and I know he was very poor, and if he was appointed, I offered to go five thousand dollars bonds for him; and he was appointed, and he never wrote me anything about it; and if he does, I will answer no. I took pains to give him some position. I thought he was a poor man, that he was a man like me. I thought he was a man. I didn't think he would try to work to bribe me. I thought he would try to work and help his friend—that was all right; to help his party.

Q.—He still remained these five or six weeks, still remained with you at the desk, and in the Assembly chamber, in such a way as to lead any person to infer that you were friends, and that he still had your indorsement?

A.—Yes, sir. For I got something in my heart, that I never forget it. He was poor.

Q.—I want to learn if anything was exposed or said, that would lead anybody in Governor Booth's office to suppose that there were reasons for withdrawing the appointment?

A.—I don't think but if I had went to the Governor and told him what transpired, that he would not appoint him; but I never say a word to nobody. I never say a word about what I know. I went to the Governor, with Mr. Pacheco, and he said Mr. Jimenez is a good man. He was a Republican down there, and very well thought of by the Spanish neighbors, and the English; and the Governor agreed to appoint him; and I told him it would be difficult to get a bondsman there, and I said I will give you five thousand dollars bonds, and I will get you the others, and it would be all right; but since he spoke to me that way, we didn't get on very good terms. We said nothing, but he never asked me for bonds, and I don't think he will get any from me.

Q.—Have you any reason to believe that he approached any other member.

A.—No, sir.

Q.—Do you think that he rendered any services in the Senatorial contest that was successful, that would be likely to gain the appointment?

A.—No, sir; I don't think that was the case. I think Mr. Pacheco and me got it for him, and it was through my efforts and Mr. Pacheco's, with the Governor, that he agreed to give him the appointment, because a week or two or three—as soon as we arrived here—that was in December—early in December—we saw him.

Q.—Did you say a few minutes ago that you had continued to pay his expenses here since his appointment?

A.—Yes, sir. Well, sometimes I invite him to come take dinner with me; to dine with me. I know he got no money, and I don't want to see him go around hungry.

Q.—Did he appear to have any more money when he went away than when he came here?

A.—No, sir. He said Mr. Neff and Graves, and several other gentlemen in the Senate, would do anything they could to give him a place in the Senate, so he could make two or three hundred dollars to go home. He said he had friends delayed him here, and he stayed, and if you are intent you will get the position. He said that to me, and I told him all right. He said there was a good show to get a position there.

Mr. Amerman—Mr. Escandon, I understood you to say that Governor Pacheco went with you to Governor Booth to solicit this appointment?

A.—Yes, sir.

Q.—You also say that Mr. Jimenez was a Republican?

A.—Yes, sir.

Q.—That he came up here and was working with Republicans, or some other party?

A.—Well, he worked for Mr. Booth. I didn't see that he worked for any other party. I got mad because he begged me two or three days to vote for him—well, not two or three days, but the last few days before he was elected, I had a regular talk with him every minute.

TESTIMONY OF JAMES DIXON.

JAMES DIXON, called, sworn, and examined:

The Chairman—Mr. Dixon, the object of this investigation is to ascertain the facts, if possible, in regard to alleged bribery and corruption, against the honor and honesty of undesignated members of the present Legislature in the late Senatorial contest. If you know anything in regard to that matter, you will please state it to the committee, or answer such questions as may be propounded to you by the committee.

A.—Any question they may ask me I would like to answer.

Mr. Norton—Were you here during the contest?

A.—Yes, sir.

Q.—During the fight?

A.—Yes, sir; I was here during all, except the time—I think it was up to the time Mr. Booth was elected; I was not here all the time.

Q.—Where do you reside?

A.—Sonoma County.

Q.—Where?

A.—In Sonoma County.

Q.—Do you know Mr. McNamara, of San Francisco?

A.—Yes, sir.

Q.—Did you have any conversation with him about the Senatorial contest.

A.—I did.

Q.—How?

A.—I did.

Q.—When and where?

A.—I think it was either one or two days before the election, that is, the day of election, before Mr. Booth was elected.

Q.—Where did the conversation occur?

A.—A part of it in the Golden Eagle Hotel, a part of it here.

Q.—In the public room at the Golden Eagle Hotel, or in some private room?

A.—In the public room.

Q.—Did he approach you upon the subject, or you open the conversation with him?

A.—No; I think I was introduced to him by Mr. Wright.

Q.—You were introduced to him by Mr. Wright of Sonoma?

A.—Yes, sir.

Q.—Did he broach the subject of the Senatorial contest to you?

A.—I think, as well as I remember, that that was a part of the subject of our conversation.

Q.—What did he say to you about it there?

A.—Well, I understood from him that he was up here working for Mr. Booth.

Q.—Did he so state to you?

A.—He did.

Q.—Working for Mr. Booth; did he ask you to aid him?

A.—He did not.

Q.—Did he say anything else except that—that he was working for Mr. Booth?

A.—We talked on different topics.

Q.—I mean about the Senatorial fight?

A.—No; not that I remember now.

Q.—Did he at the conversation he had with you here, at the Capitol?

A.—He did. I met him the next morning at the Capitol steps; I think it was nine o'clock. I think, as well as I recollect now, it was the next morning after the night I was introduced to him. He told me he was up quite late the night previous, and that he had secured a vote for Mr. Booth.

Q.—Did he tell you how he had secured it?

A.—He did not.

Q.—Did he tell you who the voter was?

A.—He did.

Q.—Who was it?

A.—Mr. Morgan, of Sierra.

Q.—Did he tell you that he had secured it since the time he had left you at the Golden Eagle Hotel, and before he met you at the Capitol?

A.—Yes, sir.

Q.—He told you that he had been up late that night?

A.—Yes, sir. I think, now, he told me he was up till one o'clock.

Q.—Did he tell you where Mr. Morgan was, when he got his promise to vote for Mr. Booth?

A.—He did not.

Q.—Did he say anything more to you about it, than what you have stated?

A.—The conversation we had then, he told me—I was just coming in on the steps—it must have been about nine o'clock in the morning. He made the remark that he was waiting there to see Mr. Hart.

Q.—He was waiting there to see Mr. Hart?

A.—Yes, sir.

Q.—And in the same connection stated that he had secured a vote for Mr. Booth?

A.—Previous to that he had told me.

Q.—Was that all he told you in that conversation?

A.—That was all. We may have had some other trifling conversation that I do not remember.

Q.—He did not tell you how he had secured it? Whether he had used any undue influence, money, checks, or things of value, or promises of place or position?

A.—No, sir.

Q.—Said nothing about that?

A.—No, sir; he did not during our conversation. Simpson came in, and he went to Mr. Hart's office, or the Governor's office. I went into the Assembly chamber.

Q.—Were you here when the final vote was taken for Senator?

A.—I was.

Q.—How did Mr. Morgan vote?

A.—He voted, I think, for Mr. Shafter.

Q.—So that Mr. McNamara had not secured Mr. Morgan's vote?

A.—It appeared so.

Q.—Are you acquainted with Mr. Morgan?

A.—I believe I am, slightly.

Q.—Did you ever have any conversation with him about it?

A.—Never.

Q.—Is this all that you know about the Senatorial contest?

A.—That is all I know about it.

Q.—That would be of any value in this action?

A.—That is all, except—that is all that I know personally.

Q.—Well, we are not conducting the examination upon strict legal rules. Have you heard from responsible parties?

A.—I heard, from Mr. Wright, what Mr. McNamara said after Mr. Booth was elected.

Q.—Mr. Wright told you the statement, the same he has given here to the committee?

A.—The statement Mr. Wright afterwards made, was that Mr. McNamara said what the man had lost by being too slow; that he didn't vote in time for Mr. Booth; that he was to vote on the next ballot for him.

Q.—That was about as Mr. Wright stated it to the committee?

A.—Yes, sir.

Q.—That is all you do know about it?

A.—Yes, sir.

Mr. Curtis—You were not residing here, were you, Mr. Dixon, at that time?

A.—Residing here.

Q.—In Sacramento?

A.—I was here as a member.

Q.—I say your home was not here; you were here as a member?

A.—Yes, sir.

Q.—Do you know of any person speaking to you; do you know a man by the name of Thomas Nosler?

A.—Yes, sir.

Q.—Did he ever speak to you about the election?

A.—He did.

Q.—What was that conversation, Mr. Dixon?

A.—He told me one evening, in the Golden Eagle Hotel, he gave me to understand that he was offered three thousand dollars for his vote.

Q.—We are speaking of Nosler?

A.—Oh, Nosler, I don't know.

Q.—You know Mr. Northup?

A.—Yes, sir.

Q.—What was it he said to you?

A.—He said he was offered three thousand dollars, or could get three thousand dollars for his vote—to vote for Mr. Booth, was what he said.

Q.—Did he say who had offered it?

A.—He didn't

Q.—Did any person ever speak to you about your vote, Mr. Dixon?

A.—No, sir.

Q.—You don't know Nosler, you say?

A.—No, sir.

Q.—Did you ever have any conversation with Mr. Hart?

A.—Mr. Hart?

Q.—The Governor's Private Secretary?

A.—Nothing but a few words that morning, after I was introduced to him. I had a few words with him.

Mr. Coggins—Mr. Dixon, how many ballots occurred after you had this conversation with Mr. McNamara?

A.—How many ballots?

Q.—For Senator?

A.—Do you mean on that day?

Q.—Well, altogether, after the conversation; do you recollect?

A.—I think that was the morning of the day that Mr. Booth was elected; as well as I can remember.

Q.—Did you take particular notice, after he told you that he had secured Morgan's vote, who Morgan did vote for, so as to be able to tell positively?

A.—I do not know that I did.

Q.—Are you prepared to say, positively, now, whom Morgan voted for?

A.—I could not from my own knowledge, and the observance I took of the matter.

Q.—In the conversation with Mr. McNamara, did he give any hint that he had money to use in the contest—anything from which you could infer that he had money?

A.—Never.

TESTIMONY OF R. KLOTZ.

R. KLOTZ, called, sworn, and examined:

The Chairman—Mr. Klotz, I will state to you the object of this investigation is to ascertain the facts, if possible, in regard to alleged bribery and corruption against the honor and honesty of undesigned members of the present Legislature, in regard to the late Senatorial contest. If you know anything in regard to this matter, please state to the committee, or answer such questions as they may ask you in regard to the matter.

Answer—I know nothing.

Mr. Norton—Were you here all through the contest, Mr. Klotz?

A.—Yes, sir.

Q.—You are a member of the Assembly?

A.—Yes, sir.

Q.—From Shasta?

A.—Yes, sir.

Q.—You had determined whom to vote for for the United States Senate before you came here, had you?

A.—Yes, sir; that is, there was some circumstances might change my vote.

Q.—Circumstances might change your vote?

A.—Yes, sir.

Q.—You had your mind settled up before you left home?

A.—Well, the first place, there was some charges I had seen brought up in the papers. Casserly I intended to vote for.

Q.—But you saw these charges in the paper?

A.—Yes, sir; against Casserly. I went to Shasta before I came down. I talked with some friends of mine about these charges, and I told them I would very likely see Casserly, and if he could not clear himself satisfactorily to me that very likely I would not vote for him. I should want to see him first.

Q.—To what political party do you belong?

A.—Let me tell you.

Q.—To what political party do you belong?

A.—Democratic. I had said in Shasta County last Fall, when I was asked, I did no electioneering. I went to two places in that county—to several places. I went there on account of business, and the business was this: I wanted to see if I could ship some doors and windows there, being as I had never shipped any yet, and my friends wanted me to do something and let the people see me, and I went there to satisfy them more than myself, and when I would be asked whom I would vote for for Senator, I told them I would vote for Casserly, and in case we could not elect him, if the chances would not be strong enough, I would vote for Booth, if he was strong enough, in order to beat the third party, which was the Republican party; that very likely they would have Gorham, and then I would vote for Booth.

Q.—In preference to Gorham, you would vote for Booth?

A.—Yes, sir, or any other man besides Gorham in the party.

Q.—You came down here and was in this Senatorial contest with the balance?

A.—Yes, sir; not quite so much, I guess, as some of them.

Q.—Not quite as deep, perhaps. You were here, however?

A.—Yes, sir; here; always here.

Q.—They knew where to find you. Where were you stopping?

A.—I was living over here, between Ninth and Tenth, on N.

Q.—So you did not have to go down town much?

A.—No, sir, I did not have to go down town much.

Q.—Did anybody approach you during the contest on the subject?

A.—No; I have talked with some of my friends here; men who knew what I had said in Shasta before I came here; and that I would vote for Booth; when I came down here, those men knowing that I would vote for Casserly. When he withdrew, they allowed, according to the promise I had made in Shasta, that I should go right straight for Booth. Well, I didn't see it in that light; but in case the Democrats nominated a man that suited me, I would go for him; which I did. I said so in caucus, before the nomination was made, that I would go into caucus, and if they nominated a man who was a true Democrat, and true on the anti-monopoly question, why, I would vote for him. In case, though, that we could not elect him, that I should vote for Booth.

Q.—Who approached you and talked with you about it most particularly of all?

A.—Well, there is Mr. Baehr and Carlston, and, I believe, Mr. Taggart.

Q.—Grant I. Taggart?

A.—Yes, sir.

Q.—What did they say to you about it?

A.—They said that if I had voted for four days I should surely now fulfill my promise.

Q.—That you had voted four days?

A.—Four days; I saw I could not elect Farley; they allowed I ought to vote for Booth.

Q.—Did they ever hold out any inducements to you?

A.—No, sir.

Q.—Money?

A.—No, sir; not any inducement whatever.

Q.—No inducement?

A.—No, sir.

Q.—As any present, here in Sacramento or elsewhere; hold out any such inducement to you?

A.—No, sir.

Q.—So that you have not been improperly approached?

A.—No, sir.

Q.—The men came out and reasoned with you, and electioneered for their favorites?

A.—Yes, sir.

Q.—That was the extent of it, was it, Mr. Klotz?

A.—Yes, sir. And on the last thing I will state a little more now. As I told once in the House here before, that I dared any man in Sacramento City—I am the last one that changed and voted for Booth—and I dared any one to say that he knew I was going to vote for Booth; and I left those men and shook my head that morning, that I would not vote for Booth; but when I got into the House I changed my mind. The first man I told was Mr. McMurry, the Senator from Shasta County and Trinity. When he took his seat beside me, I said, “Mac, I am going to vote for Booth.” He said, “My God, Mr. Klotz, what do you mean, as a Democrat?” I said, “I don’t know what I mean, but I know what I am going to do.” And I done it; and whatever I done, I am responsible for, all alone, and none else.

Mr. Curtis—You say you came down as a Democrat from your county?

A.—Yes, sir.

Q.—Did you go into the Democratic caucus?

A.—Yes, sir.

Q.—Was present when Farley was nominated?

A.—Yes, sir.

Q.—Participated in the caucus, engaged in the caucus contest, and voted for him in the caucus?

A.—No, sir, I did not.

Q.—You agreed to abide by the selection of the caucus?

A.—Yes, sir.

Q.—How many days did you vote for Farley in the joint convention?

A.—Four days—that was three days you might say. There was no joint convention the first day—Tuesday, Wednesday, Thursday. Tuesday, Wednesday, Thursday, wasn’t it? Friday, that makes three.

Q.—How many times did you vote for Farley in joint convention?

A.—In joint convention?

Q.—Yes, sir.

A.—Three times; we only took a ballot each day, I think.

Q.—How many days did you vote for Governor Booth for Senator?

A.—Only once.

Q.—What was it you said changed your mind?

A.—Sir?

Q.—What was it that brought you over to vote for Booth?

A.—Well, the Senate had sent in a resolution to adjourn. I think it was the sixth—I have got it in my scrap book for January—and I came to the conclusion—I did not go down town—I came to the conclusion this way: If they did adjourn, to go home, that there might be a plan rigged against the time we got back here. Booth and Farley would be beat, and some one else would be rung in, which I didn't want. For that reason, I voted for Booth when I had a chance to elect him.

Q.—Did you read an article in the *Shasta Courier*, with reference to your course in joint convention?

A.—Yes, sir.

Q.—You rose to a question of privilege on that?

A.—Yes, sir.

Q.—Do you remember the reason you gave to the House for changing?

A.—Yes, sir.

Q.—Was it the same you now give?

A.—Yes, sir.

Q.—You was afraid, if the Legislature adjourned over before electing a Senator, that when they assembled again, there would be some plan rigged by which both Booth and Farley would be beat?

A.—Yes, sir.

Q.—Then you were willing that either Farley or Booth should be elected?

A.—Yes, sir; Farley was my choice.

Q.—And you thought that by dropping Farley and electing Booth you would defeat them?

A.—Yes, sir.

Q.—Did you know of any such plan?

A.—No, sir.

Q.—Why, then, did you think that the Legislature adjourning a few days would have a tendency to beat Farley, who is your party man?

A.—We had lost the four days then, when we started in, and I didn't see what the reason was to adjourn. There was another reason. I will tell you this: I had promised the people of Shasta County, so far as I was concerned, to make no more unnecessary expenses in this Legislature, as what was actually necessary. Now, I had said, there are four days, and I knew while we had that in the House, we did but very little, and I voted for Farley, and on the fourth day we had less than when we started in, and I did not see any use to vote any longer, and I thought, if my vote would elect him, I would vote for Booth that day, because I could not see any chance to elect Farley, and I saw no use to adjourn without electing a Senator. That was another reason.

Q.—Then those two reasons governed you in that action?

A.—Yes, sir; and I acted on it the same day; I stuck to it to the very last day, and I made the remark that I would sit there until twelve o'clock that night, if I could elect a Senator. I wanted to elect one and go to some other business.

Q.—Well, you did vote for Hagar all the way through?

A.—Yes, sir; from beginning to end.

Q.—Then you did not have in your consideration—in your mind—about the expense?

A.—Well, you see after we elected Booth the House did not adjourn then, and whatever time an adjournment came up we voted against it, and it gave us a chance to vote for Hagar. It looked to me the members were not so anxious to adjourn after we elected Booth, as they were before.

Q.—They stuck to Hagar as they did to Booth?

A.—They did not take so much interest in it. It seemed to me they wanted to adjourn to gain time. I don't know much about it, and I may be wrong.

Q.—Those gentlemen solicited you to vote for Governor Booth for the office of United States Senator. You say nothing was said to you that was improper; they were urging the claims of their friend in a legitimate political manner?

A.—Another thing I wish to say: I worked for Farley as hard as almost any man in the House, with parties which I talked to, which I seen afterwards that they were astonished that I went the other way.

Q.—They were astonished that you went the other way?

A.—Yes, sir.

Q.—That is what so much astonished them?

A.—I said, "when we are with the hounds you must hound, so long as you can." What I meant by it was: we must keep up our side as long as we could, and I thought we were beat, yet I stood out and had as much confidence in it as any one.

Q.—Then you never thought of leaving Farley until you lost votes?

A.—No, sir.

Q.—How many votes had he lost before he lost you?

A.—I think four.

Q.—You were the fourth man?

A.—Either the fourth or the fifth; I am not sure; the papers will show.

Q.—When you were talking to these gentlemen, was Mr. Taggart a Booth man; did he urge you to vote for Governor Booth?

A.—He told me this: That I had made such a promise to the people of Shasta County, that, if we could not elect Casserly—that was the remark made, in Shasta County, at that time, before the election—that I would vote for Booth. Now, he allowed that I ought to have been convinced that we could not elect Farley, which I took in place of Casserly, and, in order to fulfill my promise, that I ought to vote for Booth.

Mr. Amerman—Mr. Klotz, was that the understanding with the Democrats of Shasta County, that it was to be Casserly first and Booth next?

A.—I think it was.

Q.—Was that the understanding of any Democrats who were here to participate in the joint convention?

A.—Well, if I am not mistaken, Mr. Simpson intended to vote for Mr. Casserly. Then, before we came down here, he was going to vote for Casserly, and, after we could not elect Casserly, he would vote for Booth; and after Casserly resigned, he went straight for Booth.

Q.—You say you commenced to vote for Farley until he commenced losing votes. Where did those votes go to?

A.—I think they went to Booth.

Q.—There were no Democratic votes cast for any other candidate?

A.—I can swear I cannot tell where.

Q.—I mean those members that participated in the Democratic caucus?

A.—I could not tell even that, whether it was Democrats lost, or what it was; I didn't keep the track of it; I know I was watching my point.

TESTIMONY OF ALEXANDER HAY.

ALEXANDER HAY, called, sworn, and examined:

The Chairman—Mr. Hay, this is a matter of alleged bribery against the honor and honesty of undesignated members of the Legislature, in regard to the late Senatorial contest. If you know anything in regard to the matter, you will please state it to the committee, or answer any such questions as may be asked you by the members of the committee.

Mr. Curtis—You are a member of the Assembly, are you, Mr. Hay?

Answer—Yes, sir.

Question—From what county?

A.—Santa Clara.

Q.—You were here during the Senatorial contest, were you, Mr. Hay?

A.—Yes, sir.

Q.—Do you know anything, Mr. Hay, about any improper means being used by any candidate for the United States Senate, or their friends?

A.—I do not, sir.

Q.—You know nothing of that?

A.—Nothing at all.

Q.—Did you ever hear anything of that kind?

A.—No, sir; never heard anything at all about such a thing.

Q.—Are you acquainted with Mr. Brown—Dick Brown, the Enrolling Clerk?

A.—I am acquainted with him since I came up here.

Q.—Are you acquainted with Mr. Eardley?

A.—Yes, sir, very well.

Q.—Do you know anything about a transaction between Eardley and Brown about the Enrolling Clerk—a bargain between them as to how the office was to be divided, and the emoluments of office, etc.?

A.—I do not see what bearing that has with this case, and I decline to answer the question.

Mr. Norton—You are acquainted with Mr. Eardley and Richard Brown?

A.—Yes, sir.

Q.—Are you conversant with the terms with which Mr. Eardley went into the Enrolling Clerk's office?

A.—I decline to answer that question, sir.

The Chairman—We will insist upon an answer to that question, as this is a matter that is before this committee.

A.—Well, I insist on declining to answer it; I refuse to answer. If you have anything to ask about the bribery investigation, I will answer. Anything outside of that, I refuse to answer.

The Chairman—I think that is a legitimate question, and I shall insist, as Chairman of the committee, on your answering the question.

A.—Well, I must positively refuse.

The Chairman—We will submit it to the House.

A.—That is correct; if the House says I must answer, I will answer.

Mr. Norton—You answered Judge Curtis that you knew nothing about any improper influences being used by any Senatorial candidate, or by any of their friends?

A.—Yes, sir; I know nothing about it. Never heard anything about it.

Q.—The reason, I will state to you, on behalf of the committee, the reason why, Mr. Hay, we deem the testimony sought to be elicited material with reference to Mr. Brown and Mr. Eardley's arrangement, is a matter pertinent to the investigation; evidence has been brought out about it. Mr. Brown's testimony has been given upon this same subject. Mr. Eardley's testimony has also been given, and this committee must eventually pass upon the questions submitted to them; and it is but right and proper, in the judgment of the committee, that we should have an answer to the question. We, of course, feel that it is a delicate position to place a witness and members of the House in, and we should regret very much to have to report you to the House as being in contempt of the House.

A.—Well, it is just upon that ground, Mr. Norton, it being a delicate position, that I refuse to answer, and shall not answer, unless compelled to do so by the House. I do not propose to be made a target of a combination, or any combination; if I am, I propose to have a good many more here beside myself. I do not propose that myself, or delegation, shall be the target of any combination, or body, brought in here.

Q.—You are acquainted with the rule of law on the subject; you are familiar with the Code?

A.—I cannot say I am very well acquainted with it; but I am satisfied to abide by the consequences of my action, anyhow.

Mr. Amerman—This matter is assuming rather a serious aspect. This committee has got a duty to perform, still it is a duty to perform. I would suggest, if this matter is to get before the House, that the questions be asked, so that if the matter is submitted to the House, the House can see for itself what questions were asked, and pass upon it.

Mr. Norton—What arrangements—I will put the question to you, Mr. Hay—what arrangements, if any, were made, so far as you know, between Mr. Richard Brown and Mr. Eardley with reference to the conditions upon which Mr. Eardley was to go into the Enrolling Clerk's office under Mr. Brown?

A.—Well, I decline to answer that question, as it is irrelevant to the matter before this committee. I would like to ask the committee upon what resolution this committee was formed or appointed?

Q.—You will certainly, Mr. Hay, while here in the presence of the committee, be treated with the utmost courtesy and respect; but our authority will not be assailed in that manner. We shall endeavor, as far as I am concerned, and I know I speak for the balance of the committee—we shall endeavor to treat every witness with candor and fairness, and put only such questions as we deem material and pertinent, and I have advised you and stated to you why we thought the questions were material. Mr. Brown's character is under consideration, as well as the matters submitted to us. He is one of the employes of the House, you are a member of the House, we are members; we occupy the same position towards each other, and towards the community, and it is right for the committee, it is right for the members to know, whether Mr. Brown should still hold his position or not, or whether some other course is to be pursued. It is not for the purpose of throwing any discredit or

attaching any blame to the Santa Clara delegation, or any other delegation, and it is not in that spirit, or for that purpose or intent, that the question was propounded by me. It is in a spirit of fairness and candor, to elicit the truth, so that we can act upon it. Mr. Eardley, while under examination before the same committee, has never hesitated to declare what the terms and conditions were, and he said as soon as he ascertained that they might be illegal, friends had advised him that it would be better that he should withdraw from that part of the arrangement, or allow Mr. Brown to withdraw.

Mr. Coggins—Mr. Chairman, I think it would not be improper to read, at this stage of the proceedings, the resolution under which we are appointed. [The resolution was read.]

On motion of Mr. Amerman, at fifty-five minutes past eight o'clock P. M., the committee took a recess for fifteen minutes.

The committee reassembled.

Mr. Norton—I move, now, that the committee go into executive session. It appears that some matters have been called up that we will have to decide in executive session.

Mr. Amerman—I second the motion.

The motion was carried, and the committee went into executive session.

On motion of Mr. Norton a ballot was taken as to whether the committee would ask the House to compel Mr. Hay to answer. The result was four noes, one aye. The committee decided to subpoena Messrs. Jimenez, Murray, and Wand, and on motion of Mr. Norton, at ten minutes past ten P. M., the committee adjourned.

THURSDAY EVENING, February 12th, 1874.

The committee met at seven P. M.

TESTIMONY OF W. N. McNAMARA.

W. N. McNAMARA, called, sworn, and examined:

Mr. Summers—Mr. McNamara, I will state that the object of this investigation is to ascertain the facts, if possible, in regard to the alleged bribery and corruption charged against the honor and honesty of certain undesigned members of the present Legislature, in regard to the late Senatorial contest. You will please state to the committee if you know anything in regard to it, or answer such questions—

Answer—I don't know anything in regard to the matter.

Question—Or please answer such questions as are asked you.

A.—Yes, sir.

Mr. Norton—Where do you reside?

A.—San Francisco, sir; No. 44 Third street.

Q.—How long have you lived there?

A.—Probably, five months.

Q.—Where did you live before you went there?

A.—At the Russ House.

Q.—How long have you lived in San Francisco in all?

A.—Some six years.

Q.—What business have you followed?

A.—I have been a detective in the Custom House; I have been a police officer; I have been a school teacher in Saint Ignatius' College, on Market street; I have been a school teacher in the school department for five years.

Q.—Where did you live before you went to San Francisco?

A.—I lived in British Columbia.

Q.—How long did you live in British Columbia?

A.—Four years and a half.

Q.—Four years and a half?

A.—Yes, sir.

Q.—Are you now engaged in teaching school at the college you spoke of?

A.—No.

Q.—Was you, on or about the first day of December last, so engaged?

A.—December last? Well, I think so. Yes, sir; I think so.

Q.—When did you quit teaching?

A.—I don't know the exact date.

Q.—How?

A.—I don't know the exact date—I don't remember.

Q.—In December or January?

A.—I think in December—in the early part of December.

Q.—In the early part of December?

A.—I think so.

Q.—What have you been doing since you quit teaching?

A.—I have been speculating in real estate, stocks, and everything of that sort that I can make any money out of.

Q.—Have an office in San Francisco?

A.—I have got the use of one.

Q.—Where is that located?

A.—At 534 California street.

Q.—In with some other party?

A.—Not in partnership.

Q.—Well, are you in an office with him?

A.—Yes, sir; generally there every day.

Q.—What gentleman is engaged with you in the office?

A.—Mr. Martin.

Q.—What is his given name?

A.—William H.

Q.—Is he also engaged in the real estate business?

A.—No, sir; he is a mining secretary, and engaged in other business.

Q.—Are you acquainted here in Sacramento?

A.—Am I acquainted?

Q.—Yes?

A.—Very well, indeed.

Q.—How often have you visited Sacramento during the——

A.—Sacramento, did you say? I am not acquainted in this city at all.

• I thought you meant San Francisco.

Q.—To what political party do you and have you belonged?

A.—To Booth's party—Governor Booth's party.

Q.—What party do you call that?

A.—The Independent party.

Q.—When did you join the Independent party?

A.—About the time of its inception.

Q.—Was you with the workers and leaders of that party in the judicial contest?

A.—Not prominently.

Q.—Was you engaged in it, if not prominently?

A.—Yes, sir.

Q.—What part did you take in the contest?

A.—No special part.

Q.—How and where did you identify yourself with the party—at any public meeting?

A.—No, sir, not particularly; I attended them simply.

Q.—Simply attended them?

A.—Attended them.

Q.—Are you acquainted with Thomas Nosler, of San Francisco?

A.—Yes, sir.

Q.—When did you form his acquaintance?

A.—A short while ago.

Q.—How long ago?

A.—Not very long.

Q.—About how long?

A.—I know him by appearance for some time.

Q.—About how long ago did you form his acquaintance?

A.—Was introduced to him formally.

Q.—You said you formed his acquaintance a short time ago. I said "how long ago?"

A.—Whether do you mean know him by sight or know him by formal introduction.

Q.—Well, know him by introduction and have a personal acquaintance with him?

A.—Well, probably a week ago; a few days.

Q.—Only a week or so ago?

A.—I don't suppose I have been introduced to him formally except for this week.

Q.—Where were you introduced to Thomas Nosler?

A.—On Kearny street.

Q.—In San Francisco?

A.—Yes, sir.

Q.—After his return from the investigation?

A.—I don't know where he came from; he was bound south, towards Market street, when I met him.

Q.—Did you come up to Sacramento in December last?

A.—I did, sir.

Q.—What business brought you to Sacramento?

A.—I had business to see to; called me here at the educational department—especially Professor Bolander's office.

Q.—Was that the special business that brought you to Sacramento, Mr. McNamara?

A.—Well, it was a special business.

Q.—I say, was that the special business?

A.—There was no special business; it was a special business of mine.

Q.—Did you have any other business that brought you here except that?

A.—Yes, sir.

Q.—What was it?

A.—I came here to assist in electing Governor Booth to the United States Senate.

Q.—At whose request?

A.—At no one's particular request; I came at the request of no one in particular; it was my own intention to come here, and that intention was further expedited by the desire of other parties.

Q.—Had you formed Governor Booth's acquaintance prior to that time?

A.—Not formally.

Q.—Had you informally?

A.—I met him casually around.

Q.—Where had you met him?

A.—Seen him at the hotels.

Q.—Have you had an introduction to him?

A.—No; not duly formal introduction.

Q.—Did you have an informal introduction to him?

A.—I don't know what you mean by an informal introduction.

Q.—You say not a formal introduction?

A.—Yes, sir.

Q.—Did you speak to him?

A.—I might have, but I don't recollect.

Q.—What?

A.—I may have at some of these meetings.

Q.—At what meeting did you speak to him?

A.—I don't recollect any meeting in particular.

Q.—Then what makes you say you think you spoke to him?

A.—I don't know that I did. I only say I think I spoke to him.

Q.—Well, as noted a personage as Governor Booth you ought to remember?

A.—Well, he may not have been Governor Booth at that time, or I may not have met him as Governor Booth.

Q.—What do you say, that you had or had not?

A.—I can't say. A good many members I have met; I didn't know their names when I met them, but might be introduced to them subsequently.

Q.—That is what you mean to say. You might have met him in a crowd?

A.—Yes, sir.

Q.—At what meeting did you attend where Governor Booth addressed the parties?

A.—I don't recollect. I think at Platt's Hall.

Q.—At Platt's Hall?

A.—Yes, sir; I think so.

Q.—Last Fall?

A.—I don't recollect; I think so.

Q.—Did you see him more than once in San Francisco?

A.—Yes, sir; I saw him around in the streets, and around at the hotels.

Q.—Around at the hotels?

A.—Yes, sir.

Q.—At what hotel?

A.—I think I saw him several times at the Cosmopolitan and Grand Hotels.

Q.—Do you remember anything you ever talked about with the Governor?

A.—I don't remember anything I ever talked with him about. I don't know that I ever talked with him at all; I didn't take particular interest in the matter, enough to set it down.

Q.—Do you know Albert Hart, the Governor's Private Secretary?

A.—Yes, sir.

Q.—Where did you first form his acquaintance?

A.—The first time I ever came to Sacramento.

Q.—The first time you ever came to Sacramento?

A.—Yes, sir.

Q.—Was that the time you came up on educational business?

A.—Yes, sir.

Q.—Were you accidentally thrown in his society?

A.—Well, I didn't meet him by any special appointment.

Q.—Where did you meet him?

A.—At the Golden Eagle Hotel.

Q.—Who sought the interview, you or Albert?

A.—I don't know that either of us sought it, I or he; I didn't seek it, and I don't know whether he sought it.

Q.—Who introduced you?

A.—I think he introduced himself.

Q.—Introduced himself to you?

A.—Yes, sir, I think so; I am not sure, but I think so.

Q.—Did you have any conversation after the introduction?

A.—About the introduction?

Q.—After the introduction?

A.—Well, yes, sir.

Q.—What did you converse about?

A.—Things in general.

Q.—Was that during the Senatorial contest?

A.—Yes, sir.

Q.—Did you talk about the Senatorial contest?

A.—Yes, sir; made it a special conversation.

Q.—That was a special conversation?

A.—Yes, sir.

Q.—What was agreed upon between you?

A.—There was no agreement.

Q.—What?

A.—No agreement. We had no agreement.

Q.—You didn't have any agreement at all?

A.—We never had.

Q.—What?

A.—Never had.

Q.—You never had any, or any understanding?

A.—I don't know, sir, exactly what you mean by an agreement.

Q.—Well, do you say you never had any understanding?

A.—I will answer you directly, if you will let me understand what you mean. I want to know what you mean.

Q.—I mean the meeting where it was agreed that you were to take certain steps towards assisting Governor Booth.

A.—No, sir; I don't know of any such agreement.

Q.—You say there was none such?

A.—No, sir; there was no necessity of any agreement to cause me

to take steps for Governor Booth, for that. I had already decided my course in that respect.

Q.—When had you decided it in that way?

A.—Well, from time to time; my admiration was growing more and more deep.

Q.—Until it became intense?

A.—Not exactly so intense as to derange my intellectual faculties.

Q.—We didn't say that; I didn't say that; I didn't suppose your faculties were deranged?

A.—No, sir.

Q.—You talked about something?

A.—I told you we had a general conversation; I really could not tell you what about.

Q.—How long did you stay up here the first time?

A.—I don't know the number of days; may be two or three, or four.

Q.—Are you acquainted with Mr. Wright, the member in the Assembly from Sonoma?

A.—Yes, sir.

Q.—How long have you been acquainted with him?

A.—I think the first time I saw him was about five years ago.

Q.—About five years ago?

A.—Yes, sir.

Q.—Has the acquaintance ripened into intimacy?

A.—It has been intimate; it is not now.

Q.—It has been intimate up to the time of this investigation?

A.—Yes, sir.

Q.—Did you see Mr. Wright on the first visit that you made to Sacramento?

A.—Yes, sir.

Q.—At whose special instance and request did you visit Mr. Wright?

A.—At no special request.

Q.—Didn't you and Albert Hart talk about it?

A.—Of what?

Q.—That you were going to see Mr. Wright?

A.—Who says that?

Q.—I didn't say that anybody says that?

A.—I don't say it either, sir.

Q.—Do you say it was not so?

A.—I say he made no agreement with me to meet Mr. Wright.

Q.—You had no such understanding with him?

A.—No, sir.

Q.—Did you see Mr. Wright on your first trip?

A.—Yes, sir; my wife was with me, and I went up to his room and saw him, and left my wife in the parlor, and he went up to visit her, and I remained there.

Q.—At that interview did you try to induce Mr. Wright to vote for Governor Booth for United States Senator?

A.—I don't think I tried to induce him.

Q.—Did you ask him to do so?

A.—I don't think I ever did—absolutely and truly asked him to vote for Governor Booth.

Q.—How long did you remain there with him, or he with you and your wife?

A.—Probably half an hour, or an hour; I don't know how long.

Q.—Did you see him more than once on that visit?

A.—I saw him every day and every hour in the day, almost.

Q.—You remained how long?

A.—Two or three days; I don't know how long it was.

Q.—Well, about how long?

A.—Two or three days.

Q.—You saw him every day?

A.—Yes, sir; every day, and every hour in the day, unless he was asleep; I was with him all the day.

Q.—You were right with him all the time?

A.—Yes, sir.

Q.—Did Mr. Hart know that you were with Mr. Wright?

A.—I don't know, sir.

Q.—Now, reflect and see if there was not an understanding between you and Mr. Hart that you were to see Mr. Wright?

A.—No, sir; it was not; that I am positive of; I made no such agreement at all with Mr. Hart. We had a general conversation about Mr. Wright; but no agreement—no written contract or verbal contract.

Q.—Well, I don't ask about a written contract. I say an understanding between you, as gentlemen, being an old acquaintance of his?

A.—There was no necessity of that.

Q.—Did he ask you if you thought you could persuade him to vote for Governor Booth?

A.—No, sir; he didn't ask me.

Q.—Did Albert Hart say anything to you about Mr. Wright?

A.—Well, he spoke of him as being a very excellent man; he spoke in praise of him; that he would very much like to gain his influence for Governor Booth on this occasion, and have him vote for him; but he was not particularly anxious that he should.

Q.—He was not?

A.—No, sir.

Q.—He was not anxious that you should use your influence on him?

A.—No, sir; because it was a foregone conclusion that Governor Booth would be elected.

Q.—It was a foregone conclusion that he would be elected?

A.—Yes, sir.

Q.—Why? Had the vote then been counted up for Governor Booth?

A.—No, sir.

Q.—How was it that you say it was a foregone conclusion that Governor Booth was to be elected?

A.—So far as I could judge from human nature. It was said all around town that the members were in favor of it.

Q.—And you didn't want Mr. Wright's vote?

A.—Well, if he gave it, it might add an additional laurel to his victory.

Q.—You didn't stoop to get it?

A.—No, sir; I didn't stoop, nor never stooped to any man.

Q.—You went back to San Francisco?

A.—Yes, sir.

Q.—Did you come again to Sacramento?

A.—Yes, sir.

Q.—What induced you to come the second time?

A.—The same business—to work for Governor Booth.

Q.—Who paid your expenses?

A.—Who paid my expenses?

Q.—The second trip.

A.—I think I paid them myself; money out of my own pocket.

Q.—Money out of your own pocket?

A.—Yes, sir.

Q.—Do you know Mr. Dixon?

A.—Yes, sir.

Q.—Did you have a conversation with him the second time you came to Sacramento, near the Capitol building, here?

A.—I think I was introduced to him the first time.

Q.—I say the second time.

A.—Yes, sir; several times in the Capitol building.

Q.—What did you talk to him about?

A.—Well, really I don't remember; everything almost; from the weather up to the last excitement.

Q.—You didn't talk about the Senatorial contest at all?

A.—Yes, sir; very much indeed about it.

Q.—You did?

A.—Yes, sir.

Q.—Did you say anything to him about voting for Governor Booth?

A.—Well, really I don't know; I may have; I didn't take any note of it; very likely I did, because I was very much interested in Governor Booth's election.

Q.—Do you remember meeting him here one morning, at the steps of the Capitol?

A.—I do, sir.

Q.—Do you remember telling him that you had been up late that night, and had gained a vote that night?

A.—I may have, sir; probably I did.

Q.—Do you remember it?

A.—I have no particular remembrance of it. I read his evidence in this matter.

Q.—Whose vote did you tell him you had gained?

A.—Well, really, I don't know. I forget.

Q.—Well, you remember the circumstances?

A.—It was just called to my mind by some remarks that he made here last night.

Q.—Well, you heard the remarks; do you remember it as a fact?

A.—No, sir, I don't; it made no impression on me; I don't know who it was.

Q.—Well, do you remember now of having gained a vote at that time?

A.—No, sir; I don't.

Q.—Do you know Mr. Morgan, the gentleman from Sierra?

A.—I did not.

Q.—Then if you had told him that you had gained Mr. Morgan's vote, it was not true, was it?

A.—Well, was it false?

Q.—Well, if you had not seen him to know him, I should think it was false.

A.—It would not be true, if I had deceived him in telling it.

Q.—Well, had you seen Mr. Morgan?

A.—Had I seen Mr. Morgan?

Q.—To talk with him about it?

A.—No, sir. About what, sir?

Q.—About his voting for Governor Booth?

A.—No, sir.

Q.—Had you talked with Mr. Morgan about anything?

A.—No, sir.

Q.—Had you ever seen the gentleman, so as to know him at that time?

A.—By appearance?

Q.—By appearance.

A.—Well, I think so.

Q.—Could you pick him out if he was here at this time?

A.—Well; I might. I am not particularly shrewd.

Q.—You remember when you came up here one evening; had you received a dispatch from Albert Hart the second time you came?

A.—Yes, sir.

Q.—Did the dispatch say, "Come immediately?"

A.—No, sir; it did not.

Q.—What?

A.—It did not.

Q.—What did the dispatch to you say?

A.—I really don't remember.

Q.—You are positive it didn't say, come immediately?

A.—I am positive it didn't say, come immediately.

Q.—What time did you arrive in Sacramento, then?

A.—I came by the train, Sunday evening.

Q.—About what time?

A.—I think about nine o'clock. I am not positive; it might have been ten minutes late.

Q.—Did you go to Mr. Wright's place, where he was stopping?

A.—Yes, sir.

Q.—Did you see Albert that evening, before you went there?

A.—I don't recollect; probably I did.

Q.—What makes you say, probably you did, if you don't recollect?

A.—Well, he was always around that Golden Eagle Hotel during electioneering times.

Q.—Because he was always there, you think you saw him?

A.—I have no particular recollection of it; I don't say that I didn't.

Q.—I don't say that, either. You went to see Mr. Wright?

A.—Yes, sir. I had some other business with him, besides electioneering business.

Q.—What other business?

A.—Private business, of a private nature—not touching upon electioneering at all. It was something that I wanted to tell him.

Q.—You were in haste to see him?

A.—No, sir; but I thought he was up, and would probably like to see a friend.

Q.—Was he in bed when you went to see him?

A.—Yes, sir; I think he was unwell that evening and had gone to bed.

Q.—Did you talk to him about it?

A.—Yes, sir; he was in a very good humor, and exceedingly communicative on points in general.

Q.—Did you tell Mr. Wright, that night, that you were here for the purpose of helping poor men?

A.—I have no recollection of making use of such an expression in my life.

Q.—Do you deny it?

A.—Most emphatically, I do.

Q.—You do?

A.—Yes, sir; it is an expression not common to my vocabulary at all.

Q.—Who was there with Mr. Wright?

A.—I don't know, sir.

Q.—Did you see anybody else there with him?

A.—Well, I think his son was there, in and out of the room. I think so. His son was there in the room.

Q.—Did you inquire of him, if it would do to approach a certain Assemblyman?

A.—Did I inquire of him?

Q.—Yes. Of Mr. Wright, about approaching Mr. Northcutt?

A.—I approach him?

Q.—Did you ask Mr. Wright if he thought it would do for you to approach Mr. Northcutt, in order to obtain his vote for Governor Booth?

A.—I may have, sir.

Q.—After having told Mr. Wright that you were here to help poor people?

A.—I didn't tell him that I was here to help poor people. I deny that. I deny that I did say it.

Q.—Do you deny asking Mr. Wright if he thought it would do for you to approach Mr. Northcutt on that subject?

A.—Well, I think if Mr. Wright —; that probably Mr. Wright spoke to me about Mr. Northcutt. Mr. Wright introduced the subject of politics to me. He said that he was inclined to vote for Governor Booth, and I know he was uncertain. In my own mind, I was convinced that he would go for him. I was inclined to think that every member of the Sonoma delegation, except, perhaps, Mr. Northcutt, would go that way. I had reasons to believe it. Mr. Wright seemed also favorable to Governor Booth. He said he would like to see him elected. He was almost indifferent in regard to the result of the election. It was only on this nigger question that he was opposed to Governor Booth, and that held him off, and that was only a matter of time. I remarked to him that I thought the (?) was very humdrum, and that he ought to make some departure from it, and distinguish himself in some way. I think that is the amount of my conversation with him. I spoke from conviction, sir; and spoke with a belief that it would be an honor to him to do so.

Q.—And you positively tell this committee that you paid the expenses of that trip out of your own pocket?

A.—You mean the second time?

Q.—Yes, sir.

A.—Most emphatically.

Q.—Did you on the first time?

A.—Well, I suppose it was; I don't know of any other money except my own that I had. It was out of my own money that I paid it. What I considered my money was what I had a right to myself, in my own possession, and nobody has a claim to except myself. That is my definition of right. What a man has a right to, that is what he can call his own; that which no one else has a claim to; that which makes it his, and not that of any other man.

Q.—You say you are not upon terms of intimacy now with Mr. Wright?

A.—No, sir; I am not.

Q.—There is an estrangement between you?

A.—I don't know; that is a hard term to say; that is a delicate term, sir, to call it.

Q.—That is a delicate term? I use a delicate term in order to approach you delicately.

A.—For which I am much obliged, sir.

Q.—Have you talked with Mr. Wright about it since this investigation commenced?

A.—No, sir; I never did.

Q.—Your old familiarity has ceased between you?

A.—It may be renewed again with redoubled vigor for all I know.

Q.—Did Albert Hart send you any money by telegraph?

A.—Sir?

Q.—Did he send an order for you to get some money in San Francisco?

A.—I don't know. I can't swear that he did.

Q.—If you had received fifty dollars from Albert Hart?

A.—What do you mean by receiving fifty dollars from Albert Hart? I should like you to qualify that expression.

Q.—I am questioning you; I have allowed you a great deal of latitude?

A.—For which I am much obliged to you.

Q.—If you had received fifty dollars from Albert Hart, either the first time, or the second time, would you now remember it?

A.—Most decidedly, sir; because fifty dollars within a month or two ago is something to be remembered.

Q.—I am aware of that, and I put the question to you, and it is not for you to evade it.

A.—I am not evading it.

Q.—What do you say about it?

A.—I say that he may have sent me fifty dollars.

Q.—Did you get it?

A.—Did I get fifty dollars?

Q.—From Albert Hart?

A.—From Albert Hart?

Q.—Yes.

A.—That is what I want to know, what you mean; whether he handed it to me, or what; in what way did I get it, or how do you wish me to answer.

Q.—You can tell yourself best, whether you received it.

A.—If I knew that Albert Hart gave it to me, I would.

Q.—What do you say about that?

A.—I say nothing to the question you put me, sir.

Q.—What?

A.—You tell me Albert Hart sent me fifty dollars; I say I don't deny it.

Q.—I ask you if you received it?

A.—Received what?

Q.—Fifty dollars?

A.—Fifty dollars?

Q.—To pay your expenses from San Francisco to Sacramento here, and return?

A.—I received no fifty dollars for coming from San Francisco and returning.

Q.—Going from San Francisco to Sacramento, and your expenses while here; and from Sacramento to San Francisco, returning?

A.—No, sir; I received no fifty dollars to pay my expenses from San Francisco to Sacramento, and return expenses from Sacramento to San Francisco.

Q.—What did you get fifty dollars for, if you got it?

A.—If I got it? Well, sir, it is not decided that I did get it.

Q.—Not by you, I know. You know, Mr. McNamara, whether you received fifty dollars from him, or not?

A.—Yes, sir; I know that he says that he sent me fifty dollars.

Q.—Well, you know whether you received it?

A.—Well, what evidence have you that I did?

Q.—I asked you.

A.—Do you see any evidence that I did?

Mr. Norton—I submit to the Chairman, the witness does not answer the question.

A.—I only want to know the meaning of the question, and I will answer it.

Q.—The question is, whether you received fifty dollars from Albert Hart, or not?

A.—Fifty dollars from Hart? Do you mean if he put fifty dollars in my hand?

The Chairman—The question is proper, and you must answer it. It makes no matter, whether he put it into your hand or sent it to you.

A.—He says he sent it to me, and I don't deny it.

Mr. Norton—You know whether you received this money or not?

A.—Yes, sir.

Q.—Tell this committee whether you received it or not?

A.—At any time?

Q.—At any time during the Senatorial contest, to pay your expenses to Sacramento?

A.—Yes, sir. I can answer that question, if you will put it to me properly—that I received from Albert Hart, the Governor's Private Secretary. Well, sir, I did not. I answer that question. I wish it to be taken down as stated; that I did not.

Q.—You did not?

A.—No, sir.

Q.—Did you use your own money in paying your expenses both trips?

A.—Any money I had was my own.

Q.—Answer my question.

A.—I used my own money, sir.

Q.—That is all. Just answer my question.

A.—What I call my money?

Q.—That is an answer, and that is sufficient.

A.—Yes, sir; I used my money—not the money of any other man; yes, sir.

Q.—To come here? You were on business—educational business—that is the business that brought you here?

A.—Yes, sir; that was a business.

Q.—Now, the business that brought you to Mr. Wright in the night-time, you say, was private business?

A.—Yes, sir; that is, the second time.

Q.—You came here to tell him something privately?

A.—Yes, sir; I came here to tell him something privately.

Q.—What was that private business?

A.—Well, it had some reference to some private business in relation to a friend of his that was away in Europe. I don't know the whole

bearings of the question of the business. This gentleman was there corresponding with me, and I communicated to Mr. Wright, and he would let me know.

Q.—What?

A.—I corresponded with Mr. Wright and let him know any information I had received in regard to this gentleman.

Q.—Had you received any additional information, after you left here the first time and before you came back the second time, to have called you to his house?

A.—Yes, sir; I think I got some information from this gentleman before the second time.

Q.—Were you furnished with money by any person or persons to assist—

A.—Furnished with money?

Q.—You wait and hear my question.

A.—Yes, sir.

Q.—Were you furnished with money by any person or persons to assist Governor Booth in the Senatorial contest?

A.—Well, to assist Governor Booth; I was not, sir.

Q.—You were not?

A.—No, sir.

Q.—Did you offer any money, either gold coin, gold notes, bank checks, drafts, or anything else, to anybody, to vote for Governor Booth or any other candidate in the Senatorial contest?

A.—No, sir.

Q.—Did you hold out an inducement to Mr. Wright, or to any other member of either House, that you would like to get them to vote for Governor Booth, and if they would you would pay them?

A.—No, sir; I always—

Q.—Well, that is an answer; when you say “No, sir,” that is an answer.

A.—Very well.

Q.—There is no use of any pettifoggery about it. Did you state to Mr. Wright that you were here for the purpose of assisting poor people?

A.—No, sir.

Q.—That is an answer. In conversation that you had with Mr. Wright that night, did you say anything about Mr. Northcutt?

A.—He introduced his name, sir.

Q.—Did you say anything about Mr. Northcutt to him?

A.—Well, I had to follow up the introduction of his name, and in that way I spoke of him.

Q.—How came Mr. Wright to speak of Mr. Northcutt to you?

A.—That is best known to himself.

Q.—What did he say about Mr. Northcutt?

A.—He introduced the electioneering matter to me, and told me that there was considerable excitement about it. That I was aware of. He said there was a great deal of money spending; did I know of any? I said I did not. He said he had heard of somebody that was offered two or three thousand dollars for his vote. I said, if he needed the money, he might as well do as others were doing, and take it.

Q.—You told him so?

A.—Yes, sir. That was the report—it was generally said so.

Q.—Who did you say might as well take the money?

A.—Whoever he alluded to that was offered the three thousand dollars.

Q.—Mr. Northcutt?

A.—No, sir. I don't know who it was; I cannot say it was not. I don't know who. Mr. Wright told me that somebody had been offered, he understood, three thousand dollars. I asked him who it was, and he said he did not like to answer, and I didn't urge him any.

Q.—Did you ask Mr. Wright, in this conversation, if he (Wright) thought it would do for you to approach Northcutt, to try and get his vote in this way?

A.—In what way, sir?

Q.—By means of a bribe?

A.—No, sir; nor any other man. I never asked him if I could approach them in the way of a bribe, because I would not approach him in that way, sir—by way of a bribe, or any other way. I never did, or never would.

Q.—You wrote a letter to the Assembly here, did you?

A.—Yes, sir.

Q.—And sent it to the Speaker of the House?

A.—Well; everybody knows that.

Q.—Well; answer that.

A.—Yes, sir. I have got it in my pocket; it has been returned to me. Here it is.

Q.—Whom did you send it to?

A.—Whom did I send it to?

Q.—Yes, sir.

A.—Mr. Estee, I suppose.

Q.—Did you direct the letter to Mr. Estee?

A.—No, sir, I did not.

Q.—How do you suppose you sent it to Mr. Estee, then?

A.—Well, by post, sir. I saw it directed to Sacramento.

Q.—Who directed it?

A.—Let's see. Who was it? Mr. Martin did, sir, I think. I don't know, really. I didn't see that; I wrote the letter in a hurry, as it was near time for the boat to go, and I gave it to another party to direct and send it to the Assembly. Whether he sent it directly to the Assembly or not, I don't know; and I cannot state exactly—cannot swear in what shape it came to Mr. Estee. I never read the letter after I wrote it; it was so near post time. I never revised the letter or looked at it after writing it, to see what it was.

Q.—Mr. Wright wishes to ask you if what you stated in that letter were the facts of the case so far as it refers to him?

A.—I don't know what you allude to.

Q.—You ought to; you have the letter in your possession.

A.—Let him ask me through you and I will answer it. What do you refer to?

Q.—The facts as stated in the letter with reference to him.

Mr. Wright—Do you say those are true?

A.—What facts, sir?

Q.—Those that you stated in the letter.

A.—About him?

Q.—Yes, sir.

A.—What are they, sir?

Q.—The letter you have in your possession.

A.—Here it is. Point them out and tell me what they are.

Q.—I shall not do it. You wrote the letter a short time ago?

A.—Yes, sir.

Q.—Didn't you allude to Mr. Wright?

A.—Yes, sir.

Q.—What did you say about him?

A.—I will read it and tell you. I cannot tell you; I have not a good enough memory to tell you every word a letter has in it.

Q.—Is it true or false?

A.—Which, sir?

Q.—The reference you made to Mr. Wright?

A.—Well, I generally——

Q.—Answer the question.

A.—Is it true or false?

Q.—Yes, sir; not what you generally do, but in this particular case, is it true or false?

A.—It may be true in one sense, and not in another.

Q.—In what sense is it false?

A.—I don't know that it is untrue in either sense; but it is true in this sense: that it is subjectively true, so far as my mind is concerned.

Q.—Well, you knew what you were writing when you were writing?

A.—Yes, sir; but you may know many things.

Q.—Don't stop to tell me what I know about it; you knew what the letter contained when you wrote it?

A.—Yes, sir.

Q.—Is that true or false?

A.—It may be subjectively true, or objectively false.

Q.—What do you mean by those terms—subjectively true and objectively false?

A.—I will explain it to you.

Q.—Explain it.

A.—You may believe a thing to be true when it is not true.

Q.—Oh, in that sense, you believe it to be true?

A.—It may be so, that I believe it in that way.

Q.—It may be so?

A.—Yes, sir.

Q.—How is it; did you believe what you then stated?

A.—I don't know, sir.

Q.—You don't know whether you believed it was true?

A.—So far, subjectively, it was true; because I never speak anything but what I believe is true.

Q.—Stand up, like a man, and face the music?

A.—Yes, sir.

Q.—Is it true or false?

A.—So far as I am concerned, so far as my mind and judgment is concerned, it is true; but it does not follow that it is subjectively true; no, sir.

Q.—Didn't you write a letter to Mr. Wright the day Mr. Hager was elected—the day of Mr. Hager's election?

A.—I may have.

Q.—Do you remember whether you did, sir?

A.—Probably, sir; I didn't take any particular notice.

Q.—Do you remember whether you wrote a letter, or not?

A.—Yes, sir; I remember; but I don't know what particular part of the letter you refer to.

Q.—How do you come to remember?

A.—Well, by your calling it to my mind.

Q.—My simple statement, in asking you the question?

A.—Well, about that; I don't think it ever occurred to me before this moment.

Q.—What was it about?

A.—It was about his election.

Q.—Whose election?

A.—Hager's election.

Q.—How long before the election did you send him the letter?

A.—Well, about the time of his election, I should think.

Q.—About the time?

A.—It was before the election.

Q.—How many days before?

A.—I don't know, sir. I did not want him to vote anyhow for him.

Q.—Is that it?

A.—Yes, sir; I didn't want him to vote for him after the election of Booth was over. Mr. Tuttle came to me and told me that—in ten minutes after—half an hour after: "We are released from our obligation to the Sonoma people. Please tell Governor Booth we will vote for him if he goes for the short term, now that Casserly has withdrawn." Which, to my mind, showed that their judgment was pretty tightly bound up, or that they would have gone for him, or they would have voted for him. I don't think they had human liberty when they were voting the other way.

Q.—Did you, or did you not, pay attention to the question?

A.—Yes, sir; I am paying attention, sir.

Q.—Did you, or did you not, in this letter to Mr. Wright, ask him to go to Governor Booth and find out from the Governor whom he should vote for Senator, for the short term?

A.—He visited Governor Booth—

Q.—Answer my question.

A.—Possibly I did—yes, sir; I think so. I would advise him to take Governor Booth's advice upon everything; he would be better off, and show considerably more sense.

Q.—Didn't you also state that if he would do that, you and Wright would do something for yourselves by the transaction?

A.—Yes, sir. I think we would all be improved by it, sir. That is just what I have said.

Q.—That is what you say?

A.—Yes, sir; I think it would be a benefit for every man down here, voting for Governor Booth.

Q.—Yes; but this was what you asked—

A.—Oh, I don't suppose that any man who has any reason does anything but for his own good. That is rationality, sir, that when a man does anything, sir, he does it for his own good. That is what constitutes a rational being.

Q.—Answer my question. You did not state to him that you and Mr. Wright would make something by it?

A.—"Make" is very generic; it applies to a great many things, sir.

Q.—Did you state that?

A.—Make something?

Q.—Yes, sir?

A.—I don't think I used such vulgar language as "make." Wright might be in the habit—in the habit of using it, but I do not.

Q.—I do not understand you?

A.—I don't think I used such a word as "make"—such a thing as "on the make," or anything of the kind.

Q.—Did you use that word?

A.—I don't recollect. Mr. Wright says I did. If it was so I would tell you so. I do the best I can for myself, sir.

Q.—When Mr. Wright says you came there, and told him that you were up on a trip to help poor men —

A.—I was not on a trip to help poor people; but I was on a trip to help myself; and there is no one ahead of me in the interest I take in myself.

Q.—How much would you help yourself?

A.—To the best of my ability. I would help myself just as far as I could.

Q.—How much did you make out of it?

A.—Nothing.

Q.—Not even the fifty dollars that Hart says he sent you?

A.—He says he sent me! He can say he sent me ten thousand dollars; I wish he had, and I would have taken every cent of it.

Q.—Did not you say to Mr. Wright, and to his son—look at me, if you please?

A.—I have got hearing, sir; better hearing on this side.

Q.—Didn't you say to Mr. Wright, and his son also, that you were the poor man's friend in this fight?

A.—No, sir; I am my own friend to the best of my ability.

The Chairman—Answer the question to the best of your ability.

A.—I don't know that I ever heard the expression until I read it in the paper; I cannot be so specific. The poor man's friend—oh, yes; I can imagine where Mr. Wright picked it up—from the table at the Russ House. The poor man's friend—I know what it alludes to.

Q.—Do you recognize the obligations of an oath?

A.—I do that, sir, most decidedly; as much as any man.

Q.—Are you laboring under the solemn responsibilities of an oath?

A.—I am, sir; but a man can tell the truth—

Q.—Stop right there. This trifling has gone far enough.

A.—Yes, sir; but truth is truth, in any shape you put it. There is no trifling about me.

Q.—Did you state to the young man Wright, son of Mr. Wright—asking him if it would be safe for you to approach Northcutt?

A.—Well, sir; I don't believe that I ever did.

Q.—Will you say whether you did or not?

A.—Well, sir, I cannot swear that I did not; but from the way I generally act, I don't generally go to boys with my information for advice. That is not my way of doing things, at all.

Q.—Did you ask the young man anything about Northcutt?

A.—Ask him about him?

Q.—Yes, sir.

A.—Probably he was there; and he is quite a precocious youth, and he may have interfered in our conversation.

Q.—Will you answer the question?

A.—Yes, sir; I will.

Q.—Answer the question.

A.—I don't think I ever asked him directly, whether I did or not.

Q.—Would you remember if you had asked him?

A.—I might not. If I had I might, because my memory is remarkably good when I am particular about anything.

Q.—Then you neither admit nor deny?

A.—Yes, sir, exactly; that is just about it.

Q.—You cannot tell whether you did or not?

A.—Yes, sir; but it would not make much difference even if I did ask him. It would not make any serious point to ask a beardless boy anything of that kind.

The Chairman—Confine yourself to the question.

Mr. Norton—Did you tell Mr. Wright here in the Capitol, at the door, that you had a man that was going to vote on the next ballot for Governor Booth?

A.—I may have, sir.

Q.—Do you remember?

A.—I do not remember of telling him at the door of the Capitol that I had a man that was going to vote for Governor Booth on the next ballot. When I am swearing to it, I must have the exact words and expressions—literally those expressions used.

Q.—Did you, at any time, tell him any such thing during the contest?

A.—Probably, I may have; I may have.

Q.—Do you remember it?

A.—I do not remember it particularly.

Q.—Sir?

A.—I do not remember particularly; there was so much twaddle. There isn't a man alive could remember everything he speaks during election times.

Q.—Don't you remember telling Mr. Wright that a man had missed a good thing by being too late?

A.—Yes, sir. Every man who didn't vote——

Q.—Answer my question.

A.—Yes, sir; I admit I did; and what follows?

Q.—You did tell him that?

A.—Yes, sir.

Q.—I want you to answer the question.

A.—Yes, sir—for the sake of the argument—I did.

Q.—Then you will admit anything, under oath, for the sake of an argument?

A.—No, sir; I admit a hypothesis, for the sake of argument; I admit it for the sake of any conclusion you want to arrive at.

Q.—Is it true?

A.—I won't swear to it, sir.

Q.—Is it true? Now, you know whether it is true or not.

A.—What is true?

Q.—Did you tell him that some man had missed a good thing by being too late?

A.—By being too late? Did I tell him that a man had lost a good thing by being too late?

Q.—Or words to that effect?

A.—Well, that is better. If you don't bind me down to particular words to swear to I will answer. I would rather you would not.

Q.—You suppose you did?

A.—Yes, sir.

Q.—Do you remember having told him so?

A.—Well, I have no accurate remembrance of it.

Q.—Have not an accurate remembrance of it, and yet you are willing to swear to it?

A.—Well, I am not willing to swear to it. I have got a confused idea. There are some points that are indistinct to my mind.

Q.—Who was that man that had missed a good thing?

A.—Well, somebody, I suppose, I had in my mind at the time.

Q.—Do you know who it was?

A.—I don't know exactly who it was. I think you alluded to his name awhile ago, here. I am bad at remembering names, anyhow. You mentioned his name awhile ago, I think.

Q.—Was it Northcutt?

A.—Well, it may be Northcutt.

Q.—And might not?

A.—And might not.

Q.—Was it Northup?

A.—I don't think it was.

Q.—Why might it not be Northup?

A.—Because I don't know the man.

Q.—You do know Northcutt?

A.—Yes, sir; it would be more probably Northcutt than Northup, because I never tried to get Northup.

Q.—Then you did try to get Northcutt?

A.—I may have got him—Northcutt?

Q.—Yes, sir.

A.—Yes, sir, I did try. I talked to him generally, I believe, all the time. I had this idea, exactly, that will elucidate the whole thing, if you will allow me one minute.

Q.—But I am not going to allow you that minute.

A.—Well, then, go ahead, sir.

Q.—Was it Northcutt?

A.—I am not sure whether it was Northcutt, really. I could not swear to all the things that I have said about election times.

Q.—Do you know what the man's name was?

A.—I think you mentioned the name awhile ago.

Q.—Was it Morgan?

A.—Yes, sir; I think it was Morgan.

Q.—Now, had you seen Morgan?

A.—No, sir; you mentioned awhile ago about him.

Q.—Then how did you come to tell Mr. Wright that this man had missed a good thing?

A.—I heard he was going to vote for Booth, but he did not.

Q.—Didn't you tell him that you had a man to vote for him?

A.—What do you mean?

Q.—That you had been to get him?

A.—No, sir; he might have come to me without my going after him.

Q.—You don't know Morgan now?

A.—I think I would know him if I saw him; I think I saw him once or twice.

Q.—Did you ever talk to Morgan about the Senatorial contest?

A.—Never, sir.

Q.—Then how could it be Morgan?

A.—Certainly, you can know a man's disposition in London that you never saw. You know Gladstone's politics—

Q.—Did you know Mr. Morgan's disposition?

A.—I have heard what his disposition was.

Q.—Who from?

A.—Talked of in the hotel.

Q.—Who talked about it?

A.—Well, really, I don't know about that; I am not a remarkably good listener, but I cannot close my ears when sitting at the fire where parties are talking.

Q.—You heard him talked about?

A.—Yes, sir; I heard people say he was going to vote for Governor Booth.

Q.—Didn't you tell Mr. Dixon that you had been up late that night, and had gotten a vote for Governor Booth?

A.—I might.

Q.—Answer my question.

A.—Yes, sir.

Q.—How can it be that you gained the vote of a man you never saw, unless you worked through another agent?

A.—Well, supposing it was through another agent.

Q.—What agent?

A.—Nobody, that I know of; I told him that, "Well, here I have got another man;" as much as to say, "There has come to our side another convert."

Q.—You had just come up; you hadn't been here but two or three days?

A.—Well, it doesn't take a man to be here a lifetime.

Q.—Do you know Governor Booth, even now?

A.—I think I do.

Q.—Where have you ever met him?

A.—I have met him—seen him in San Francisco.

Q.—Have you met him since the Senatorial contest began?

A.—Yes, sir; several times.

Q.—Spoken to him?

A.—Yes, sir; Mr. Wright was with me there on one occasion. I was there with Mr. Northcutt on another occasion.

Q.—In the Governor's office?

A.—In the Governor's chambers with me; both of them, personally, at different times.

Q.—Did you ever have any talk with the Governor about assisting him in the fight?

A.—Me?

Q.—Yes, sir.

A.—The Governor knew I was assisting him.

Q.—How did he know it?

A.—He knew that every honest man assisted him.

Q.—Impliedly, you want to impress the crowd with the belief that you are an honest man?

A.—By no means, sir; my modesty forbids it.

Q.—Did you go to the Governor's rooms while you were here?

A.—Several times, sir.

Q.—I mean not his rooms in the Capitol—not his public rooms here—but his rooms on Front street?

A.—On Front street? I don't know where Front street is.

Q.—You don't know where that is?

A.—No, sir.

Q.—Did you see him at any other point in the city except here in the Capitol?

A.—I think in the Capitol principally, sir.

Q.—Did you see him at any point in the city except in the Capitol?

A.—I saw him on the streets, I don't know what streets.

Q.—Did you see him in any other building except the Capitol?

A.—Not to speak to him.

Q.—Did you see him in any other building, not to speak to him?

A.—I don't recollect.

Q.—You don't remember whether you were at the Governor's rooms or not, away from the Capitol?

A.—I know I was not.

Q.—Well, did you see him at any other room?

A.—At any other room?

Q.—Yes, sir.

A.—No, sir; I didn't.

Q.—Then what do you mean when you say you didn't?

A.—He might have been in a room, just to look about. How many do I see here in this room; could I remember them all? No, sir.

Q.—You were not at his place on Front street?

A.—No, sir; I don't know where his place is on Front street.

Q.—Did you see or have any conversation with Albert Hart more than once while you were here?

A.—Yes, sir; every day, several times; over and over again.

Q.—Over and over again?

A.—Yes, sir; over and over again.

Q.—What business called you together?

A.—Well, we congratulated one another.

Q.—Upon your success?

A.—Yes, sir.

Q.—Did you congratulate Albert when you got Morgan to vote for Governor Booth?

A.—No, sir; we had been elected without Morgan. We only wanted to have a good sweeping majority, because we knew the opposition party was petulant and jealous.

Q.—When was it that you determined that you had votes enough.

A.—Well, all the time, sir; we knew that. It was only a question of time; there was no doubt at all about it.

Q.—No doubt about it at all?

A.—No, sir; as the result proved; and, believe me, that is the best proof, sir.

Q.—Is it true when you came up the first time that you had been to see Mr. Wright and you found you could do nothing with him, as he was bound to adhere to the Democratic candidate?

A.—I knew, sir——

Q.—Hear my question?

A.—You are stating things——

Q.—I am asking you if this is true?

A.—You said——

The Chairman—Do us the kindness to answer the question.

A.—Is he not stating that I said what I didn't?

Mr. Norton—I didn't say you said anything. I will ask you if the statement as I stated it was true. If you are cautious your testimony will look better on paper.

A.—Well, sir, I am not as particular as to how my testimony looks upon paper, as some in these libelous papers. I don't refer to these gentlemen, but the sheets which they represent.

Q.—You go slow. Is it true that the first trip you made here to Sac-

ramento, that when you got through with Mr. Hart, he told you he had no further use for you and you could return?

A.—Through what?

Q.—With your business in endeavoring to get Mr. Wright to vote for Governor Booth?

A.—You might as well ask me if I had heard from Washington. Casserly was out of the field, and the Sonoma delegation should have voted for Booth, but they wouldn't do it. They were not with the Democrats and the Republicans wouldn't recognize them, and they were between wind and water, dilly-dallying, and I never saw anything like it in my life.

Q.—Now have you answered my question? You have not waited for me to put the question. You must like to hear yourself talk.

A.—No, sir; but it gives me a great deal of pleasure to answer your questions.

Q.—Is it true, that Albert Hart told you you could do no good, and you might as well return to San Francisco?

A.—He didn't tell me that, sir. There was no good, for the good was done.

Q.—That is the first trip, you understand. Was the good already done, before Governor Booth was elected?

A.—Not in all its completeness.

Q.—It was not?

A.—It was settling up.

Q.—And you swear positively that he didn't telegraph to you, "Come immediately?"

A.—I do, sir. "Come immediately;" I want the words particularly noticed.

Q.—"Come immediately?"

A.—No, sir, he didn't.

Q.—Did he use words to that effect—or in substance like those words?

A.—Well, yes.

Q.—What were they?

A.—"Come at once."

Q.—Come at once?

A.—Yes, sir.

Q.—You did come at once?

A.—Yes, sir; not at once.

Q.—Well, you answered as quick as you could?

A.—Yes, sir; as quick as I could.

Q.—You came up on the next train?

A.—Yes, sir; come at once, is a figurative expression—you cannot exactly accomplish it.

Q.—Was you not sent up, the first time, by a man in San Francisco, to see Albert Hart?

A.—Sent up, sir?

Q.—Yes, sir?

A.—No, sir; I am no man's messenger.

Q.—Didn't you come up—didn't you come up at the request of a gentleman in San Francisco?

A.—Not specially. I was coming up, sir. I was coming up, and he said: "You will have an opportunity of working there for Governor Booth."

Q.—What man was that?

A.—Mr. Martin, that I alluded to awhile ago.

Q.—Do you know whether he corresponded with Albert Hart about you, or not?

A.—Well, I suppose that he did. He must have spoken favorably of me. I suppose he did, sir; yes, sir.

Q.—How?

A.—I suppose he did.

Q.—You suppose he did?

A.—Yes, sir.

Q.—Did you see the letter that passed between those gentlemen?

A.—No, sir.

Q.—What makes you suppose he did, then?

A.—Well, he told me.

Q.—Told you he had?

A.—Yes, sir.

Q.—Did he tell you he had received a letter from Mr. Hart, requesting this gentleman to send you up?

A.—Well, he said: "As you are going up——"

Q.—Answer my question.

A.—Well, not that, sir. If I answer your questions, I must know what you desire to know.

Q.—Then really, when you first came up, you came up to see Mr. Hart, at the request of your friend?

A.—Yes, sir.

Q.—And came every time to see him when you came to Sacramento?

A.—Yes, sir.

Q.—Did he meet you at the train, or did you meet him at the Golden Eagle Hotel?

A.—At the Golden Eagle Hotel, sir. I left my card at the desk for him when I arrived there, and he went up to the drawing room to see me; and I think Mr. Wright was there and my wife, and we met him subsequently.

Q.—Did you and Mr. Wright and Mr. Hart then have a conversation together?

A.—I declare I don't know. I think we had a conversation—several conversations, that night and other nights.

Q.—Every other night? You didn't stay up but three nights that first trip?

A.—I didn't stay up the whole night then. I went to bed about one o'clock.

Q.—How long did you stay next time?

A.—I think about three or four.

Q.—Didn't stay up all night?

A.—No, sir; I didn't stay up late at all—that night to about half-past one or two o'clock.

Q.—Now, was not you and Albert trying to get Mr. Wright to vote for Governor Booth?

A.—Whether I was trying to, with Mr. Hart? There was no use trying. Trying—trying to bring down the moon, you know. You can't try a man when you know he won't go with you.

Q.—I believe you said a minute ago that he would have voted for Governor Booth, if Casserly were out of the field?

A.—I supposed he was a sensible man.

Q.—Then you saw there was no use trying to pull down the moon?

A.—Yes, sir; exactly, sir.

Q.—When did you find that out?

A.—I never made the experiment to pull down the moon.

Q.—When did you find out that you could not get Mr. Wright?

A.—Well, that is my business. I knew he was to exercise his own judgment generally, but in that matter I thought, well, he is favorably inclined to Governor Booth, and he will come around in due time, and if he don't, we can do without him.

Q.—When did you ascertain he would not go for Governor Booth?

A.—At no time. I believe if the fight had lasted two or three days longer, they would all have gone for him, for they were looking quite woe-begotten over the matter.

Q.—The first night that you came here, you say, Albert introduced himself?

A.—Yes, sir; I think he did; yes, sir.

Q.—And you were upon educational business when you had been sent up by a friend, Mr. Martin?

A.—I was not sent up by Mr. Martin. I was coming upon that business. I wanted to get a State diploma for myself, and a renewal of certificate for my wife.

Q.—This was business that naturally fell in your way, and you took it in?

A.—Yes, sir; come in accidentally, and I was delighted to assist him.

Q.—Did Governor Booth know you were assisting him in this fight?

A.—Yes, sir; and I took pains to let him know I was not going to hide my light under a bushel.

Q.—Where did you let the Governor know you were assisting him?

A.—I saw him in the Chamber. That is the reason he thought Mr. Wright and Northcutt were friendly to him, because they were there.

Q.—How do you know Governor Booth knew they were friendly to him?

A.—I think he did.

Q.—How do you know that?

A.—I think they made that impression.

Q.—How do you know he thought so?

A.—A man in his position knows—

Q.—How do you know he thought so?

A.—By his conversation.

Q.—What did he say?

A.—I really could not say—"He is a very excellent man; a fine honorable man; quite delighted to have him"—

Q.—Governor Booth told you that?

A.—I don't know that he used those words.

Q.—Did he use any words to that effect?

A.—Not exactly to that effect; but I think he mentioned his name in terms of high commendation. That was my inference; and of course he would like to have him—

Q.—Where did that occur?

A.—Down in the Capitol. I think Mr. Wright had a conversation with him.

Q.—Did that occur in the presence of Mr. Wright?

A.—No, sir, I don't think it did. No, sir, it didn't.

Q.—When did it occur—at the next interview you had with the Governor?

A.—No, sir; I think I had a conversation, and he talked with me

about things in general; how things were going on. I felt no uneasiness about it.

Q.—Then it was he told you about it?

A.—Yes, sir; I think something to that effect.

Q.—How many times did the Governor say that to you?

A.—I didn't count it, sir.

Q.—More than once?

A.—It is not necessary to remark those things—a repetition of those things is very bad.

Q.—That occurred the next day after you arrived?

A.—No, sir; I think it was the second day.

Q.—The first trip you came up?

A.—The second time, you might say.

Q.—The second day of the second trip?

A.—No, sir; we used no scriptural language at all.

Q.—Didn't you come twice here?

A.—Yes, sir; it was the second time, the day after.

Q.—The day after you arrived?

A.—Yes, sir; or the second day.

Q.—Didn't you tell the Governor that you had been to see Mr. Wright, at night-time, in his place?

A.—No, sir.

Q.—Did you tell Governor Booth that you had been to see Mr. Wright, and was here to aid poor men?

A.—No, sir; nor any other man. I obeyed nobody.

Q.—Did you tell the Governor that you thought of approaching Mr. Northcutt in his behalf?

A.—When?

Q.—That you thought of approaching Mr. Northcutt in his behalf?

A.—No, sir, I didn't ever. I think Mr. Northcutt approached him by going to his chamber, and visiting him with me.

Q.—What did he say to him?

A.—I didn't note it particularly; they talked about the appearance of Sonoma, I suppose, and general matters; its fine grain produce, vintage, and all that sort of thing.

Q.—Was that all they talked about?

A.—I don't know, they might have talked of other things. I was talking to Mr. Hart a oneside.

Q.—You were talking to Mr. Hart a oneside?

A.—Yes, sir.

Q.—What were you talking about?

A.—I could not tell you, sir.

Q.—Was it about the Senatorial contest?

A.—I don't know, really, what it was about. I think it was about poetry, sir, we were talking.

Mr. Amerman—Mr. McNamara, you said before this committee, on your oath, that you never received, directly or indirectly, from Albert Hart, the sum of fifty dollars?

A.—Did I swear to that, sir?

Q.—I ask you whether you state it now, on your oath, that you never received from Albert Hart the sum of fifty dollars, directly or indirectly?

A.—Before the election?

Q.—At any time?

The Chairman—That is a fair question, you must answer it.

A.—When I am on my oath, it's a very serious thing for me to know what the question is. I have a right to understand the question exactly.

Mr. Amerman—I will repeat the question again. I don't care about any display of your scholastic ability and trickery at all. You are now a witness on the stand, under oath, and I ask you now as a witness, under oath, whether you ever received the sum of fifty dollars from Albert Hart, directly or indirectly?

A.—The sum of fifty dollars I never received from Albert Hart, directly or indirectly.

Mr. Coggins—Mr. McNamara, when Mr. Martin mentioned to you that he had received a note from Mr. Hart requesting you to come up, did he give you fifty dollars, either in coin, in notes, in a check, or money order?

A.—No, sir.

Q.—Did he inform you how you could obtain fifty dollars?

A.—How I could obtain fifty dollars?

Q.—At that time; which had been sent down by Albert Hart for your use?

A.—Did he inform me how I could obtain fifty dollars? No, sir; he did not.

Q.—Did you receive fifty dollars from any source after you received this information from Mr. Martin that you were wanted here, and before you left the wharf in San Francisco?

A.—Did I receive fifty dollars before I left the wharf, from any source?

Q.—Between the announcement of Mr. Martin that Mr. Hart desired you to come up, and your departure from the wharf—did you receive fifty dollars from any source?

A.—I did not.

Q.—From any source?

A.—Yes, sir; I received fifty dollars; I think I got one hundred and fifty dollars or one hundred and eighty dollars from one source; I don't know which.

Q.—Did you receive this sum of fifty dollars from any source?

A.—I heard of fifty dollars. No, sir; not from any source. Well, I may have, sir; I was to get fifty dollars for night school; I may have received that.

Q.—Did you receive fifty dollars, in any form, which you had not earned by your regular business?

A.—No, sir; I did not.

Q.—Did you receive any sum which was given to you as having come from Albert Hart?

A.—I did, sir.

Q.—What was the amount?

A.—Forty-five dollars.

Q.—How did you receive it?

A.—In gold coin.

Q.—Who gave it to you?

A.—Mr. Martin.

Q.—Did Mr. Martin state what that was for?

A.—Yes, sir; to assist me in my expenses here.

Q.—To assist you in paying your expenses to come up and get a State certificate, a State diploma for yourself, and a renewal of certificate for your wife?

A.—No, sir; but to come here, perhaps, and spend a few days in behalf of Governor Booth.

Q.—Did you not swear that your only business that brought you up was to attend to that business, the first time?

A.—No, sir; I didn't, sir. That was not my only business; I said it was a business of mine.

Q.—You swear that you have never had any conversation with Mr. Morgan previous to the election of Governor Booth?

A.—Never, sir, to my knowledge; I may have, but I don't recollect it. I may have, but I didn't know that he was Mr. Morgan, member of the Assembly; I didn't know him as such.

Mr. Amerman—Mr. McNamara, I would like to ask you a question or two in relation to that letter which was received by the House the other day. Was that letter directed to the Speaker, personally, or was it directed to the Assembly?

A.—I wrote the letter, but I don't know, sir; it was directed on the inside to Mr. Estee—the Hon. M. M. Estee, Sacramento. It is my letter that you have, sir.

Q.—Did you intend that that letter should be read by the Assembly, or did you intend it as a private communication?

A.—Well, sir, I didn't think it would be read in the Assembly; I accompanied it with a certificate, thinking that the Speaker would take it into consideration, and prevent any further action. I did not imagine that I was dealing lightly with the Assembly, which it was not my intention to do. I was sick, sir, and I was not capable of coming. I thought he would read it for his own information, and therefrom glean sufficient to think I was justified in stopping away until I got means to try and come.

Q.—Do you remember the contents of that letter?

A.—Yes, sir.

Q.—Do you remember certain statements in that letter concerning Mr. Wright?

A.—Yes, sir, I do.

Q.—Were the statements in that letter true or false, so far as Mr. Wright was concerned?

A.—Well, they may not, sir, be false.

Q.—At the time that you penned those lines in relation to Mr. Wright, did you intend to convey the impression to the mind of the Speaker of the House that they were true?

A.—Well, sir, I used a term there, which is "imbecility," which I didn't intend should bear the meaning that has been assigned it, in the Assembly, in regard to Mr. Wright, because I have even heard his very best friends use similar favorite epithets in regard to him, as boys call their father "the old man," "the old codger," or "the old fogy," which in themselves are respectful enough, but in certain cases they would not be. In one they would and in another they would not be. It depends on just exactly how you take it.

Mr. Norton—Did you, at either of the visits you made to Sacramento, during the Senatorial contest—did you have any conversation with any other of the known friends of Governor Booth, except Albert Hart?

A.—Of the known friends?

Q.—Those that you knew to be friendly to him in the contest?

A.—Yes, sir, I did.

Q.—Did you converse with Mr. Estee?

A.—No, sir.

Q.—With Mr. Swift?

A.—No, sir.

Q.—With Mr. Edgerton?

A.—No, sir.

Q.—None of the supposed leaders of the Independent party?

A.—No, sir.

Q.—What other friends do you mean, when you say you conversed with known friends of Governor Booth?

A.—Those men that I met in the hotel.

Q.—Well, name some of them.

A.—I declare I don't know what the names of them are, but I could point them out to you—men that exercised their influence for Booth, and spoke loud about him.

On motion of Mr. Amerman, a recess of fifteen minutes was taken.

TESTIMONY OF W. S. M. WRIGHT—(RECALLED.)

W. S. M. WRIGHT, recalled, sworn, and examined:

Mr. Norton—Mr. Wright, you have heard the testimony of Mr. McNamara, have you, upon the stand? You have been here during all his testimony, have you not?

A.—Yes, sir; I have.

Q.—Have heard it all?

A.—I think so.

Q.—From beginning to end?

A.—Yes, sir.

Q.—You have heard his statements with reference to his specific denial of what he said about the interview with you that night when he came there when you was in bed, Mr. Wright?

A.—Yes, sir.

Q.—Do you still reiterate what you said on a former occasion?

A.—I stated on the former occasion just the conversation that occurred between us, just as I recollect; but as he said here, he might have said something about Mr. Brown, sir. He was in Europe. I don't recollect whether he did or not.

Q.—Was that his private business with you, to talk about Mr. Brown?

A.—I was expecting a letter from Mr. Brown. Mr. Brown has gone to England, but Mr. Brown's wife is in San Francisco, and he was acquainted with her.

Q.—Did he then and there state to you in substance, or to the effect that he was here for the purpose of aiding poor men in this Senatorial contest?

A.—As I said the other night, I started the conversation, and commenced laughing at him, telling him that I understood Jones was coming up, etc. And as I remarked the other night, and he said that he was here for the purpose of helping poor men, and to procure votes for Governor Booth. About that time, or just before, he showed me a dispatch that he had received from Mr. Hart, asking him to come immediately.

Q.—How did the dispatch read?

A.—There was just only a few words in it: "Come immediately," or "Come at once," or "Come right away." I don't remember which was the exact words.

Q.—In this conversation, did he inquire in regard to Mr. Northcutt?

A.—Yes, sir; he asked how he stood. I told him how he had stood all the time.

Q.—Did he ask you if you thought he could approach Mr. Northcutt?

A.—I told him that I would rather it was him than myself. I went on and told him concerning Mr. Northcutt's family. I knew Northcutt's family ever since I was a boy, and they were above reproach in every way.

Q.—Did you afterwards receive a letter from him in reference to Senator Hager's fight?

A.—Yes, sir.

Q.—Where is that letter, Mr. Wright? Is it now in your possession?

A.—If I didn't throw it away, it is at home. I was a little provoked when I received it, though I think I put it away.

Q.—How long after Governor Booth's election?

A.—The letter was written the morning before Mr. Hager was elected. I left here in the morning, and went home the day Mr. Hager was elected. I was not here.

Q.—Where did you receive the letter; here in Sacramento?

A.—I received it at home. It was sent here, but was returned to me.

Q.—Sent to Sonoma?

A.—Yes, sir; but I met him here at the hotel, and he told me he had written to me; and he said you had left and will not get the letter.

Q.—What did he say in the letter, according to your best recollection?

A.—There were only a few words I recollect particularly. He went on and advised me—I suppose he thought he was capable of doing it—to leave the Democratic party, and go to Governor Booth and ask him how I should vote—whom I should support for the short term—and says he, "In so doing we will be doing something for ourselves." That part of it I recollect very distinctly. I don't know that it is in those very words.

Q.—But that is the substance of it, according to your recollection?

A.—Yes, sir.

Q.—It made you indignant, and you have either left the letter at home or destroyed it?

A.—Yes, sir; I left it at home, if I didn't destroy it.

Q.—At the time that he showed you a dispatch from Albert Hart, did he say that he would meet or had met him that evening?

A.—He didn't say, to my recollection, or I didn't ask him.

Q.—Please reiterate again to the committee what he did say to you the morning of the election, here in the Capitol, about a man's being too slow.

A.—I met him just there at the door, and says he, I have got a man that is going to vote for Governor Booth, he says, the second ballot, to-day; says he, he will not go the first ballot; but he has just been here and told me he will go for him on the second ballot; and, says he, I have been down to the Governor's room and informed him that there is a man will go for him on the next ballot. After the ballot was over, I met him at the door, and I don't know whether I spoke to him or he to me. He says that the man was too slow, and a man lost a good thing sometimes by being too slow. The Governor has slipped in, and, of course, he has missed a good thing. I didn't ask him what the good thing was, but I am under the impression it is the same man he told Mr. Dixon about; but I am not positive.

Q.—Mr. Morgan?

A.—Yes, sir.

Q.—He told you that he had seen his man and talked with him?

A.—He said the man had just came out and told him that he was going for Governor Booth, on the second ballot.

Q.—Exactly. You heard his testimony, to-night, when he said that he never had talked with this man—admitting that it was Morgan. You heard that?

A.—Yes, sir.

Q.—Your impression is, that that is the man he spoke of?

A.—That is my impression. Whether he did talk with the man or not, that I don't propose to say.

Q.—But he told you he had?

A.—He told me he had. After hearing his evidence here to-night, I should want some more corroborative evidence to believe most anything he would say.

Q.—Then his statements about his interview with you in the night-time there are unfounded?

A.—Yes, sir.

Q.—Totally unfounded?

A.—Yes, sir; I don't think he stated anything in regard to the conversation that was correct; but he evaded all the principal points that we talked about.

Q.—Persistently evaded and denied?

A.—Yes, sir.

On motion of Mr. Amerman, at twenty minutes past ten o'clock, P. M., the committee adjourned until Wednesday, at seven o'clock, P. M.

SIXTH DAY'S PROCEEDINGS.

At thirty-five minutes past seven o'clock P. M., the committee met.

TESTIMONY OF THOMAS WAND.

THOMAS WAND, called, sworn, and examined:

The Chairman—The object of this investigation is to ascertain the facts, if possible, in regard to the alleged bribery and corruption against the honor and honesty of undesignated members of the present Legislature, in regard to the late Senatorial contest. If you know anything in regard to this matter you will please state it to the committee, or answer such questions as any member may ask you.

Mr. Norton—Where do you reside, Mr. Wand?

Answer—San Francisco.

Question—What business are you engaged in?

A.—I am a merchant—wholesale liquor dealer, on Front street.

Q.—Were you here in Sacramento during the late Senatorial contest?

A.—Yes, sir.

Q.—What time did you come up to Sacramento?

A.—I can't recollect the day, but I think I was here nearly all of the month of December up to the holidays; that is, off and on, I was the most of the time here.

Q.—Did you come up before or after the Legislature convened?

A.—After—a day or two afterwards—a very short time afterwards.

Q.—Did you take any part in the Senatorial struggle?

A.—Yes, sir.

Q.—For whom were you working; in whose interest were you working during the time, if anyones?

A.—Well, at Judge Hager's request, his family affairs being so that he could not come up here himself, I came to represent him, and did so; came here as one of his representatives, he being a candidate for the United States Senate.

Q.—Did you take any particular part for or against Governor Booth in his struggle against Mr. Farley and Shafter?

A.—No, sir; I didn't.

Q.—Took no stock in that fight, at all.

A.—None at all.

Q.—How much money besides your actual traveling expenses, if any, did you bring with you to Sacramento, after Judge Hager had requested you to come here and take charge of his affairs as his friend?

A.—I brought none at all except my own money, and but very little of that.

Q.—During the struggle did you send to San Francisco for money?

A.—I didn't; not for a cent.

Q.—Was any money, to your knowledge, used in that contest by way of gaining votes for your friend Mr. Hager?

A.—Not one cent to my knowledge and my belief. I might qualify that answer though, because I don't want to place myself in the wrong in any way, shape, or form. I was here nearly a month, and being the representative of a man who was a candidate for the United States Senate, I lived a little more freely probably than I would have done under other circumstances, and until the whole thing was over I spent of my own money and disbursed a few hundred dollars—not to exceed six hundred dollars, from the beginning to the end.

Q.—You mean by disbursing legitimately?

A.—Yes, sir; that I spent it freely—as a man would live a little more freely being in that position.

Q.—What I wanted to get at was to know if you, from your own knowledge, knew of any money being used to influence voters?

A.—I don't know of a single cent being used; but so far as I am concerned, myself, I say positively that I never mentioned Judge Hager's name in connection with money to any member of the Legislature, and I never authorized anybody else to do it.

Q.—In disbursing the money that you spoke of, not to exceed, say six hundred dollars, and in living in the manner you speak of, it was, I suppose, simply with your friends?

A.—Exactly; dinner, wines, etc., and so on.

Q.—Do you know of any promises of place or position being offered, by yourself or any other friend of Judge Hager's, to secure any votes for him?

A.—I don't; I never made any such offer, and I don't know of any such ever having been made.

Q.—Did you, from time to time, apprise Judge Hager by telegraph, or otherwise, how the vote was going?

A.—I did.

Q.—And you say, that at no time did he send you money?

A.—Not a cent.

Q.—And at no time did you send for money, yourself, to use in the contest?

A.—That is what I say, I didn't; I had means of getting money of my own; I never used one dollar of Judge Hager's money in the fight.

Q.—When he asked you to come here and take charge of his fight—his family being sick—asked you to represent him and his interests—did he say anything about using any means in the fight?

A.—Yes, sir.

Q.—What did he say about that?

A.—He said this: That if I would come to Sacramento, that he was willing to pay any legitimate expenses, but nothing for corruption purposes; and for the purpose of corruption, corrupting the Legislature, or a member of the Legislature, in any way, shape, or form; and I have got a letter in my pocket from him now to that effect.

Q.—When was that written, Mr. Wand?

A.—This was written before he was elected—the letter that I have got.

Q.—What caused him to write such a letter as that to you, if nothing had ever been said between you about money being used in that direction and for that purpose?

A.—What caused it?

Q.—Yes.

A.—Well, I don't know, except that it might be for this, that he, knowing my enthusiasm in this nature, that when I started in to make a fight, that I might possibly compromise myself, although I had never had any authority to compromise him.

Q.—At what place in this State was the money that you speak of principally spent; at what hotel or hotels, or dining rooms, places where you and your friends congregated?

A.—I lived at the Golden Eagle Hotel. There was three or four of us besides.

Q.—You had your headquarters there?

A.—Yes, sir.

Q.—Were you aware of the change that would occur, prior to its occurrence, in getting from the candidate for whom they had been voting, members over to Judge Hager on the day he was elected? You were in the Assembly chamber that day, were you not?

A.—Yes, sir.

Q.—Were you aware, before that vote was taken, that these members that they would change ever—Republicans that had been following the Republican candidate straight through—were you aware, before that vote was taken, that they were going for Judge Hager?

A.—I was aware that three Republican Senators were going to do it, because they had told me so; and, I think, on account of personal friendship to me. And if you want to know, I will tell you who they were.

Q.—Who were they?

A.—Andros, Kent, and Duffy.

Q.—And Duffy?

A.—Yes, sir. I was aware that they were going to do it, from the fact that they had promised me to do it, if we ever got in reach; and I have every reason in the world to believe that they did it through personal friendship to me—those three gentlemen.

Q.—Had you, or any one else, so far as you know, held out any

inducement to these men to change, and go for Judge Hager, prior to their voting for him?

A.—I have no other knowledge or belief, than what I have just stated; that it was through personal friendship to me.

Q.—And that there was no inducement?

A.—That there was no inducement.

Q.—Either promise, or hope of reward, or place?

A.—So far as I am concerned there was not any, and I have no reason to believe that there was any from any source. At any rate, I think—well, I have no knowledge, or belief, that there was any other reason.

Q.—Are you acquainted with Mr. Snyder, of Mariposa?

A.—I was never acquainted with him until after the election. Never spoke to him.

Q.—Did you have any conversation with him about voting for Judge Hager?

A.—Not until after the election. I was introduced to him on the cars, as we were going down, after the election was all over.

Q.—You didn't know him before?

A.—No, sir; I didn't know him before; I never spoke to him before.

Q.—And these members were the only ones—the ones that you have named, Messrs. Kent, Duffy, and Andros—were the only ones that you knew of that would change and go for Hager on that ballot?

A.—By my request; yes, sir.

Q.—They were the only ones that you knew would change before the ballot was taken?

A.—I knew—I didn't know in one sense of the term.

Q.—Well, you had good reason to believe?

A.—I had good reason to believe that there were fifteen Republicans that would do it.

Q.—What made you believe that there were fifteen Republicans that would do it?

A.—Because I had been told so.

Q.—Because you had been told so?

A.—Yes, sir.

Q.—In conversation with members themselves?

A.—No, sir; but what I had heard, that there were fifteen of them ready to do it, if it was necessary for them to do it.

Q.—Was it stated to you what the reason was?

A.—Yes, sir.

Q.—What was the reason then related to you?

A.—Well, because they didn't want another Dolly Varden elected United States Senator.

Q.—That was the reason, was it, why thirteen Republicans—assigned by thirteen Republicans?

A.—By fifteen.

Q.—Fifteen Republicans?

A.—Yes, sir; that was from hearsay, however, as I tell you; I only tell you from my own knowledge that these three gentlemen had promised me individually.

Q.—What reasons did they assign for the change, if any. What reasons did the three who made it assign for the change, if any?

A.—Well, the reasons that they assigned to me, were: because that they knew I was in Judge Hager's fight, and that they were my intimate personal friends; we having been in the Senate together—all of

us, and I requested them to do it; and they promised me that they would do it, if it came in reach so that their votes would do it.

Q.—Didn't assign any reason for so doing in talking?

A.—I believe it was on the ground of personal friendship.

Q.—They didn't, to you, assign any reason?

A.—No, sir; no more than I assume it.

Q.—That it was on personal grounds, or friendship to you—having known you the length of time you spoke of?

A.—Yes, sir; exactly—exactly.

Mr. Coggins—Mr. Wand, are you acquainted with Richard Murray?

A.—Yes, sir.

Q.—Were you, during the Senatorial contest?

A.—Yes, sir.

Q.—Did he take an active part in it in any way?

A.—Did he?

Q.—Did he?

A.—Well, not that I am aware of. I employed him as a servant—as a sergeant-at-arms, as it were—or a messenger.

Q.—You paid him, did you, for his services?

A.—Yes, sir; I paid him for his services.

Q.—How much did you pay him?

A.—Well, I don't know. Mr. Bullock and myself, possibly, paid him one hundred or one hundred and twenty-five dollars.

Q.—Was that all that he was paid, so far as you know?

A.—That was all, with the exception of fifty dollars, that I paid him after I went to San Francisco. That was for another purpose.

Q.—Did he ever tell you that any member of the Legislature would vote for Mr. Hager, on condition of the payment to him of a sum of money? Whether he thought that any member would?

A.—Not until after the election—he never did.

Q.—Didn't tell you before the election, that he thought that any particular member could be induced to vote by paying a certain amount of money?

A.—No, sir.

Q.—Do you know whether he received money, from any source, to pay to any members, for any reason?

A.—I don't know that he did, and I don't believe that he did.

Q.—Have you had conversations with him, since you went to San Francisco, on the subject?

A.—Yes, sir.

Q.—Several?

A.—One or two.

Q.—Has he demanded more money from you for his services?

A.—Yes, sir.

Q.—How much does he demand?

A.—Well, I gave him fifty dollars. It was like this: During the holidays, when a good many or a large number of the members of the Legislature were in San Francisco, and Judge Hager was expecting to go away every day, and there were a great many of the members that he didn't know at all, personally, even of the men that voted for him, that he desired to see and become acquainted with, so he and I came to the conclusion that he had better have a reception at the Cosmopolitan Hotel—Judge Hager and myself came to that conclusion. And so I saw Murray and told him, says I, "We are going to have a reception there, and we have engaged a parlor"—and we did have a reception for two

afternoons; and I told Murray, says I, "If you will go and hunt up these gentlemen and take the invitations to them, why, I will pay you for it," and did so. He, I suppose, spent a couple of days in that kind of business, and I gave him fifty dollars for it.

Q.—Have you paid him any money in San Francisco for services rendered here in Sacramento?

A.—No.

Q.—Has he at any time there made any threats to you in his demands for more money—said anything of a threatening character?

A.—Well, yes, he has.

Q.—What were the threats?

A.—That I had not paid him enough money; that he ought to have more; that he only got a hundred dollars, or one hundred and five dollars or one hundred and ten dollars, out of Bullock and me both, up here, and only fifty dollars down there, and it was not enough; and he thought he ought to have some more money.

Q.—Did he, at any time, say to you that if you didn't pay him money he would expose certain matters in connection with the Senatorial election, and make a worse showing than could ever have been made with regard to the Casserly election?

A.—No; he never said that.

Q.—Did he ever say anything of that import—comparing this election with the Casserly election, so far as bribery and corruption was concerned?

A.—No, sir; he never made any comparison of that. He wanted to get more money out of us, because I had not paid him enough.

Q.—Did he threaten, if you didn't pay him more money, he would expose, or make an exposition of something here?

A.—Yes, sir.

Q.—What did he say he would expose?

A.—That somebody or other had been bribed. Well, I will give you the whole story: that I had come up here with a large amount of money, and had expended it for the purpose of bribing members of the Legislature, and that he had not got enough of it. All of which, of course, was not the truth, because I never came up with a dollar of anybody's money.

Q.—In response to those threats, you say, you never gave him a dollar in San Francisco?

A.—I don't know; I never did give him a dollar.

Q.—Did you make any arrangement by which anybody else would give him anything?

A.—No, sir; I thought that I had given him enough money here; and I, after having employed him to go and look up members of the Legislature and take invitations to them to come to Judge Hager's reception, I didn't suppose, at the time that I employed him to do that, that I was going to have to pay him any more money, because I thought I had given him enough here; because I never had anything to do with him, except to employ him as a messenger; that was all I had to do with him here or even there; but he came and demanded more money. And when I was paying Judge Hager's bill at the hotel, before I had paid it, he came and demanded more money. "Well," says I, "here, if you are just going to quit this thing now, of bothering me, I will add fifty dollars more to Judge Hager's bill and pay it to you," which I did.

Q.—At what time was that done?

A.—It was some time during the holidays; a few days before Judge Hager left, and Judge Hager was expecting then to leave every day.

Q.—Do you know of his having received any money on account of his services here since this bribery investigation was commenced?

A.—I know that he didn't; that is, I know that he went to Judge Hager for money, and Judge Hager referred him to me; and I ordered him out of the store.

Q.—How long ago was that?

A.—Well, that was probably a month ago.

Q.—Did he at any time, in either of these conversations, name any member that he said had received any money in the fight?

A.—No, sir.

Q.—Did he name the person that he alleged had paid the money?

A.—No, sir.

Q.—Did he say that he himself paid the money for any parties, or carried money to any parties?

A.—No, sir.

Q.—Did he give no intimation that he had handled money, received it from some source, and paid it over to any member?

A.—No, sir; not any.

Q.—You stated in the investigation that you brought but little money with you, and did not send for any more. Did you receive any more without sending for it, from any source?

A.—Yes, sir.

Q.—From whom?

A.—I have a customer here. In the City of San Francisco, as I said in my original examination, I am a wholesale liquor dealer. I have a customer here by the name of E. L. Billings, from whom I drew during all this contest, six hundred and twenty-five dollars, and gave orders on my own establishment, in San Francisco, to pay it.

Q.—Have you seen Mr. Murray, with reference to this matter, since the examination commenced?

A.—No, sir; because he insulted me. I looked upon him as trying to extort money from me—to blackmail me—and I ordered him out of my store, and have not seen him since.

Q.—On what basis did he claim it?

A.—Because he thought he had not got enough.

Q.—But if he had no facts on which to base such a demand?

A.—No, sir; no claims to base such a demand. He fastened himself on me like a horse-leech when he came up here. The first question he asked me was, if there was not a large amount of money in this fight, when he knew I came here for Judge Hager. I told him no, there was not a quarter of a dollar, and he then said, you had better turn around and go back home. The first onslaught he made on me was to get ten dollars to pay a week's board he owed at the City Hotel, and I gave it to him; and then for the next twenty days it was five dollars here and five dollars there, and so forth, and so on, as I tell you; but he had no authority from me, or from anybody else that I am aware of, to do anything except to attend and attempt to extort money from us, which he did.

Q.—Do you know where Mr. Murray is now?

A.—Yes, sir—at least, I don't know. I suppose he is in San Francisco—he lives there.

Mr. Norton.—Mr. Wand, did you know the character of this man Mur-

ray when you met him, and allowed him to fasten himself upon you. Had you known him before this time in San Francisco?

A.—Yes, sir.

Q.—Did you know what his reputation was?

A.—Yes, sir.

Q.—What reputation does he bear in San Francisco, where he is known, for honesty and integrity, truth and veracity?

A.—Well, I will tell you about that: He is a carpenter by trade, and a few years ago he was a hard-working man, that made his living honestly, and I became acquainted with him from belonging to the same political party that he did, and looked upon him as a good square man; and I never knew anything to the contrary about him, until recently; and, from this thing, I have made up my mind, and come to the conclusion now, that he is not—well, he is a ward politician.

Q.—That is the character the man bears below, in San Francisco?

A.—Yes, sir.

Q.—But you had no idea, until he proved himself to be that character to you, by his demand upon you for money, that he was that character of a man?

A.—No, sir; I had no such idea in the world; I would not have had anything to do with him. For instance, when the last Democratic Convention was here—the Democratic Judiciary Convention—I, myself, had him elected Sergeant-at-Arms of the Convention, and he was not a man of bad character at all, I thought.

Q.—When he asked you the question if there was much money in this fight, and you told him no, not a quarter of a dollar, and he replied that if that was so, you had better turn round and go home, didn't that give you an indication of what his true character was?

A.—No, I don't know that it did, from the fact that they all appeared to be so on the outside. I don't mean to say that it appeared to be so in the Legislature; but on the outside it appeared to be the impression that there was going to be large amounts of money used.

Q.—That was public rumor?

A.—Yes, sir; exactly. Well, I just thought in this way: that this man had taken the same view that the public appeared to entertain—the popular mind.

Q.—You didn't take it then as an evidence of his dishonest tendency?

A.—No, sir, I didn't; and I never gave him any money improperly, or for any dishonest purposes.

Q.—And you say you knew of none being used during the contest, either for Senator Hager or Governor Booth, or any of the parties?

A.—I do say, positively, that I don't know of my own knowledge, or of my belief, of there being used one dollar of money, either for the election of Governor Booth or of Judge Hager, to the posts to which they were elected.

Q.—How much of this hundred dollars had you paid yourself? You say you and Mr. Bullock, together, paid him about that sum here?

A.—Oh, I can't tell.

Q.—You paid it, I suppose, in small amounts—five, ten, and twenty dollars—as he demanded it, to keep up his running expenses?

A.—Yes, sir. Mr. Bullock and me had rooms together. Mr. Bullock was here as my colleague.

Q.—In making the contest?

A.—In representing Judge Hager; and I think that we, between us, probably, gave this man what I say—one hundred dollars, or one hun-

dred and ten dollars, one hundred and fifteen dollars, or one hundred and twenty dollars.

Q.—Have you any objection to submitting the letter you spoke of to the committee, Mr. Wand?

A.—Judge Hager's letter?

Q.—Yes, sir.

A.—No, sir. On the contrary, I will be very proud to do it.

Mr. Coggins—Did Mr. Murray board at the Golden Eagle also?

A.—No, sir.

Q.—Did you, in addition to this one hundred and fifty dollars, pay his board while he was here?

A.—No, sir. We gave him moneys to pay his board, and he done so.

Q.—What has given you such a bad opinion of Mr. Murray? According to your testimony, he done nothing but what was fair and honorable in what you employed him to do. What has changed your mind?

A.—I don't know that my mind is very particularly changed, only from the fact that he came after me very much; nearly all the time I was here, there was scarcely a day but what he wanted five dollars, or ten dollars, and then afterward, in San Francisco, coming and wanting me to give him more money.

Q.—Is the fact that he thought his services worth more than you thought them, sufficient to cause you to change your opinion as much as you have done? That seems to be the only reason you had for changing your mind?

A.—Well, he afterwards went to Judge Hager's house, and that made me have a worse opinion of him, and he demanded money from him.

Q.—Did he make any threats to Judge Hager?

A.—Not that I am aware of; but I cannot say positively as to this thing; only what Judge Hager told me, that he—this man Murray—had come to his house and “wanted money from the fact that he had been working for me and laboring for me here.” Now, I can only repeat what Judge Hager said to me, of course, and of course I can't swear to the truth of it, but the probability is that it is so; that he went to Judge Hager and told him that he had labored, and worried, and worked for him for months, and Judge Hager told him, says he: “I have no knowledge of anything of the kind, and my representatives in Sacramento are Messrs. Wand and Bullock; if they created any obligations to you, why go to them; I am willing to pay any legitimate expenses that they create; but I don't recognize you or anybody else.” I was not there, and don't know anything about it; and he then became somewhat obstreperous, and Judge Hager ordered him out of his house, and it was then that he came to me again, and that was what made me change my mind about him.

TESTIMONY OF L. L. BULLOCK.

L. L. BULLOCK, called, sworn, and examined:

The Chairman—Mr. Bullock, the object of this investigation is in order to ascertain the facts in regard to the alleged bribery and corruption, in regard to this late Senatorial contest. If you know anything with regard to the matter, you will please state to the committee, or answer such questions as they may desire to ask you.

Mr. Norton—You are the Mr. Bullock spoken of by Mr. Wand?

Answer—Yes, sir.

Question—You were here during the Senatorial contest, were you not?

A.—Yes, sir.

Q.—You had rooms, as Mr. Wand stated, with him, at the Golden Eagle Hotel?

A.—Yes, sir.

Q.—Do you know this man Murray?

A.—I do.

Q.—Were you acquainted with him in San Francisco, before you came to Sacramento?

A.—I have known him, I suppose, about two years.

Q.—Has your acquaintance been an intimate one, or a casual acquaintance?

A.—Well, not an intimate one. I met him, probably, once a month—saw him on the street—but never was intimate with him. I knew him as a ward politician, and one who interested himself in the Democratic party.

Q.—Did you come here in the interest of any one in the Senatorial contest; and if so, whom?

A.—I came up here to aid, all I could, the Hon. Judge Hager's election.

Q.—Did you come up at the same time Mr. Wand did.

A.—I did not.

Q.—How many days after?

A.—Well, Mr. Wand had been up here——

Q.—And returned to the city?

A.—And come back to the city. I met him on Sacramento street, and he thought I, probably, could do some good, and asked me, as a personal favor, to go; and I promised that I would, and came up here for that purpose.

Q.—Mr. Wand says that he and you disbursed about one hundred dollars to this man Murray, while here, for his services as a messenger for you.

A.—Yes, sir.

Q.—How much of that money did you pay Murray?

A.—I paid him here, in four different times, twenty dollars; I paid him in San Francisco, I think, the day before Christmas, twenty-five dollars.

Q.—In what capacity was he acting when you came up here—you came up after Mr. Wand?

A.—I don't know what his capacity was. He came and asked me, as a favor, to lend him money; said he was entirely out of money, and asked me to let him have some. I told him I had but little, and I gave him five dollars; and I had him for three days to go and see certain people, and watch them, so as to hear conversations; but not any particular, special business, only to find out what he could.

Q.—To shadow them?

A.—Yes, sir; you might call it shadowing.

Q.—Was he around your rooms at the Golden Eagle?

A.—Well, he was there, I believe, most every day; some days he didn't come.

Q.—How much money did you bring with you from San Francisco—any more than enough to pay your traveling expenses?

A.—I think, about sixty dollars.

Q.—That was the extent of it?

A.—That was all at that time. I went down to see my family, and got fifty dollars more.

Q.—During the contest, so far as you know, Mr. Bullock, from your own personal knowledge, was any money used in securing votes for Mr. Hager, or any other Senatorial candidate?

A.—Not one dollar; not one cent.

Q.—Any promise of place or position?

A.—Not from me, or from any one else that I know of. I heard a good deal of street rumor, but I knew nothing of that.

Q.—Just heard street rumors?

A.—I heard what everybody heard.

Q.—That there was a great deal of money in the fight?

A.—But knew nothing about it.

Q.—Knew nothing about it of your own knowledge?

A.—No, sir.

Q.—Did you or did you not have any friends who were acting for you, approach any member of the Legislature to gain their votes through any undue influence?

A. Not to my knowledge, directly or indirectly. I never authorized anybody, and didn't know of anything of the kind. I had friends that were working very zealously for Judge Hager, and did everything they could in the matter—in the way of talking.

Q.—Friends that resided in San Francisco, I suppose?

A.—Well, some of them were from there, and some from here. I have four or five friends here that are good friends of mine, and I urged them to do all they could for Hager.

Q.—You staid here until the contest was over?

A.—I did.

Q.—Was Mr. Hager aware that you were working in his interest?

A.—He was. I was in correspondence with him. I wrote him, I think, every day, stating the condition of affairs.

Q.—Was anything said between you in this correspondence, or at any interview that you had with him, about the use of money to gain votes, if they were needed?

A.—None whatever. None whatever.

Q.—About anything of value being used, aside from money?

A.—No, sir; not any promises or pledges, or anything of the kind; but he wanted me to come up here and do all I could that was honorable and just, but, under no circumstances, to use any undue influences, or improper influences.

Q.—Why did he feel it necessary to caution you in that regard?

A.—Well, I suppose he had that natural inclination to do everything that was right; that is in the man. I have known him a long while and know he would not stoop to corrupt a man or use his influence to corrupt him, or allow any one else to do so.

Q.—Were you and Mr. Wand the principal friends working for him, that he had here. Was the power delegated to you?

A.—He had influence, I suppose, from others. I know there were others working for him.

Q.—What others, if you know? Who were they, Mr. Bullock?

A.—Well, there is a man by the name of O'Neil, and the Hon. Mr. Gildea was working very zealously for him; and, in fact, several members of the Democratic party were doing their best. There were sev-

eral parties from San Francisco that I do not know that were working for him.

Q.—How long before the final vote was it known to you and Mr. Wand that the fifteen Republicans would go over to vote for Hager if they ever got within the reach?

A.—That was a mere rumor. I knew of Mr. Kent. He said, "Duffy, Andross, and I," with some other gentleman—I have forgotten the name—that whenever Hager got within the proper number of votes, so that he could be elected, they would change their vote and go for him.

Q.—You didn't then know the other twelve?

A.—I do not know. It was a mere rumor that they would vote for him. I was not aware of the fact. I had every reason to believe these gentlemen would, because they said they would.

Q.—Did they tell you so?

A.—There were three or four parties.

Q.—I mean aside from these three?

A.—No, sir. Some of them I did not know at all.

Q.—Do you know about this man, Murray, trying to extort money from Mr. Wand since his return to San Francisco?

A.—I know it from Mr. Wand.

Q.—Did he try to do anything of that kind with you?

A.—No, sir; he came and wanted money, and I told him I was poor and could not give him any money; and the last money I gave him, he said he was poor, and I went out and borrowed it. I did so because I thought his services were worth that money.

Q.—Was that in San Francisco?

A.—Yes, sir.

Q.—How much did you give him then?

A.—I gave him twenty-five dollars.

Q.—And that made forty-five dollars that you have given him?

A.—Forty-five dollars that I paid him.

Q.—Did he make any threats to you?

A.—No, sir.

Q.—Or use any language that could be construed into a threat?

A.—No, sir; made no threats to me.

Q.—Have you seen him since that time to converse with him about it?

A.—I have not. Mr. Wand states he gave him fifty dollars afterwards.

Q.—That more than paid him for his actual services?

A.—I do not know. For all the services he rendered I should think that was sufficient.

Q.—Pretty steep, wasn't it, for what he did for you?

A.—Well, I do not know; he might have done more than what I am aware of. I considered that he was paid.

Q.—Well, while you were here, and he was acting for you, you had an opportunity of knowing what he did do?

A.—I could not tell what he did do. He might have done more for Mr. Wand than I was aware of. When he came and reported to me what was going on, and what he had heard in certain places, I could judge what he did for me in the getting of that information.

Q.—Did he name to you whom he thought could be brought over from the Republican candidate to Mr. Hager, after following the men around?

A.—No, sir; he never mentioned the name, to me, of any man that he thought could be brought over.

Q.—Did you name any man to him whom you wanted him to follow?

A.—No, I didn't; I asked him to go to certain places and hear what was going on; sit around, listen, and report. I did not name or designate anybody particularly.

Q.—What places did you send him to, to see what was going on?

A.—Well, my special request was that he would go to the hotels.

Q.—Did you name any hotels?

A.—Well, no; not particularly; the Orleans and others; stay around the barroom.

Q.—The Capital Hotel?

A.—Yes, sir; the Capital Hotel. Wherever he could see people discussing the question of the Senatorial fight.

Q.—After he had been out on his mission or missions, did he report to you?

A.—He did, sometimes, I suppose; all the information he got he came and reported to me.

Q.—He gave it to you?

A.—Yes, sir.

Q.—Was this all the money that you know of his having received, Mr. Bullock; what you have stated?

A.—That is all the money that I know of his getting. I gave him that money for the services he rendered.

Mr. Coggins—Did you, at any time, while here, have control of twenty-five thousand dollars for any purpose?

A.—No, sir.

Q.—Did you have control of any sum of money more than the fifty or sixty dollars that you stated you brought here.

A.—Well, I think about sixty or seventy dollars that I got from Mr. Wand.

Q.—Did you ever send Mr. Murray with a message to any member of the Legislature—any particular member?

A.—I never did—never in my life.

Q.—Did he never tell you that he thought he knew of any member that he believed—whose vote he believed could be secured by the use of money?

A.—Well, I don't know that he ever told me that.

Q.—Has he ever threatened, since your return to San Francisco, to expose you?

A.—He never has to me; never has spoken to me since I paid him the money.

Q.—Have you seen him since this bribery investigation commenced?

A.—I have not.

TESTIMONY OF U. P. BARNES.

U. P. BARNES, called, sworn, and examined:

The Chairman—The object of this investigation is to investigate charges in regard to the alleged bribery and corruption against the honor and honesty of undesignated members of the present Legislature, in regard to the late Senatorial contest. If you know anything in regard to the matter, please state it to the committee, or answer such questions as they may ask in regard to the matter.

Mr. Norton—You were here during the contest, Mr. Barnes?

A.—Yes, sir.

Q.—Are you acquainted with Mr. Bullock and Mr. Wand?

A.—I am acquainted with Mr. Wand, intimately, but not quite so well acquainted with Mr. Bullock; I know Mr. Wand.

Q.—Did you take any interest, yourself, in the Senatorial struggle?

A.—I was interested; not interested, particularly; but I was in Mr. Booth's fight; I didn't know anything about the Hager fight.

Q.—You do not know anything about the Hager fight at all?

A.—No, sir; I was interested in Mr. Booth's fight, though.

Q.—Took an interest in Governor Booth's fight?

A.—Yes, sir.

Q.—Do you know of any money, or bank check, draft, or anything of value, being used to secure votes for Mr. Booth, or any other Senatorial candidate?

A.—I do not, sir.

Q.—You say you took no interest in Mr. Hager's fight?

A.—No, sir; I know nothing about the fight at all; in fact, I do not know much about Mr. Booth's fight, only I was desirous of his being elected.

Q.—But you do not know yourself, or know of others, using undue influences to secure votes?

A.—No, sir.

Mr. Coggins—Did you see any indications of money being used in the Booth fight?

A.—No, sir.

Q.—Hear any reports that you believed were well founded, at the time, that anybody had money for such use?

A.—No, sir; I do not know that one dollar was used for his election.

Q.—Do you know of any bets being made on the election?

A.—I bet five hundred dollars myself that Mr. Booth would beat Mr. Wallace; that Governor Booth would beat General Wallace.

Q.—Do you know of any other bets on that subject?

A.—No, sir.

Q.—Whom was your bet made with?

A.—With a gentleman named Newton.

Q.—Hank Newton?

A.—Yes, sir; that was the name; that is, I bet five hundred dollars against three hundred dollars, that Governor Booth would beat General Wallace.

Q.—Judge Wallace?

A.—Yes, sir.

Q.—Was that the only instance in which money was at stake in any way, that you know of?

A.—I was for Governor Booth for that one thing in particular—because I wanted to win.

Q.—Are you acquainted with Mr. Nosler?

A.—Very well, sir.

Q.—Have you any reason to think he had any money to spend in Mr. Booth's election?

A.—No, sir; I do not think he had a dollar.

Q.—Were you sufficiently intimate with him to know if he had money and had used it?

A.—Yes, sir.

PAUL MORRILL and Mr. CAMPBELL were called, but neither answered.

On motion of Mr. Norton, the committee went into executive session at thirty-five minutes past eight o'clock, P. M.

Mr. Freeman—I move that we make no report until the Sergeant-at-Arms returns with the other witness, and until the testimony is closed.

Mr. Simpers—I second the motion.

The motion was carried.

Mr. Freeman—I move that we adjourn to meet when the Sergeant-at-Arms reports the other witness, at the call of the Chairman.

Mr. Coggins—I second the motion.

The motion was carried, and the committee adjourned.

WEDNESDAY, February 25th, 1874.

The committee met at forty minutes past seven P. M. Present—the full committee.

TESTIMONY OF M. E. JIMENEZ.

M. E. JIMENEZ, called, sworn, and examined:

The Chairman—I will state, Mr. Jimenez, that the object of this investigation is to ascertain, if possible, the facts in regard to alleged bribery against undesignated members of the present Legislature, in regard to the late Senatorial contest. State to the committee what you know, or answer such question as the committee may ask you in regard to the matter.

Mr. Norton—Where do you live?

A.—At San Buenaventura.

Q.—How long have you lived there?

A.—Since last June.

Q.—Where did you live before you went there?

A.—I lived in San Francisco, sir.

Q.—How long did you reside in San Francisco?

A.—The last time, I resided there from eighteen hundred and sixty-six—March, eighteen hundred and sixty-six, when I was mustered out of the army.

Q.—Did you ever live in Placer County?

A.—Yes, sir.

Q.—When?

A.—In eighteen hundred and sixty-two.

Q.—Where did you go from Placer?

A.—To San Francisco, and from there to San José.

Q.—What business did you follow in Placer?

A.—Mining, and sometimes trading.

Q.—In what part of Placer did you live?

A.—Forrest Hill. I also lived in Bunsly Cañon; I had a tunnel there—or an interest in a tunnel.

Q.—You were teaching, did you say, in Placer County?

A.—I had a Spanish class there at night, at Forrest Hill.

Q.—What did you say had been your business in San Francisco?

A.—I was sometimes in the Custom House.

Q.—How long did you remain in the Custom House?

A.—I was altogether there about two years.

Q.—What were you doing in the Custom House?

A.—I was Inspector of Customs, sir.

Q.—What year did you go to the Custom House?

A.—I went there in eighteen hundred and sixty-nine, sir.

Q.—Since you have been in San Buenaventura, what have you been doing?

A.—As soon as I got down there I went to work in a lawyer's office, copying papers for him; and I did some work, some copying, for the County Clerk.

Q.—Are you still engaged in that business?

A.—I am, sir; I am in the lawyer's office, and am also a Notary Public, sir.

Q.—What is the lawyer's name?

A.—Hynes.

Q.—What?

A.—J. D. Hynes.

Q.—Are you acquainted with Mr. Escandon, a member of the Assembly?

A.—Yes, sir.

Q.—When did you first form his acquaintance?

A.—I formed his acquaintance the first time, in eighteen hundred and sixty-five.

Q.—In eighteen hundred and sixty-five?

A.—Yes, sir.

Q.—When you resided in San Francisco?

A.—No, sir. I was in the army, and we were traveling from California into Arizona. It was the first time I got into San Buenaventura.

Q.—Did you stop at the place where he lived?

A.—Yes, sir. We camped there from eleven o'clock in the morning until the next morning, and we then proceeded on our march.

Q.—When did you next see him, after leaving him there?

A.—In eighteen hundred and sixty-seven.

Q.—Where did you see him then?

A.—In the same place—in San Buenaventura.

Q.—When next after that did you see him?

A.—After that?

Q.—After eighteen hundred and sixty-seven?

A.—I don't believe I seen him until this last time; I went to live down there.

Q.—You have seen him, then, before this session of the Legislature convened?

A.—Yes, sir; I came up with him.

Q.—You came up with him to Sacramento?

A.—Yes, sir.

Q.—What business brought you here?

A.—Mr. Escandon, soon after the general election in September, told me that he wanted me to come up here; that he would use his influence for me to help me get a position here. He said, at any rate, that we would not starve; that we would get something to eat. When the time came to come, Mr. Escandon was sick, and I was tending to a vineyard of his for a few days. I had gone to the vineyard to look after things, and to keep the books. When I came back, he was down sick, and I

remained at the vineyard until a day or two before we came up here. He got out of bed a day before we came up here.

Q.—Did you stop with him here in Sacramento?

A.—Yes, sir.

Q.—Where did you stay?

A.—At the Empire House.

Q.—At the Empire House?

A.—Yes, sir.

Q.—How much money did you bring with you to Sacramento?

A.—I didn't bring a single cent; I didn't have a dollar in my pocket when I left there. He paid my fare from the start.

Q.—And he paid your expenses while here?

A.—Yes, sir.

Q.—When he was in the Assembly chamber, did you keep with him?

A.—Most of the time; yes, sir.

Q.—What time did you return to the county where you live?

A.—I left Sacramento on the sixteenth day of January.

Q.—What time did you receive the appointment of Notary Public, if at all?

A.—Well, it was some time in February, I think. My commission, I think, is dated the twenty-seventh day of January.

Q.—Your commission is dated the twenty-seventh day of January?

A.—Yes, sir.

Q.—Were you here all through the Senatorial struggle?

A.—Yes, sir; I was.

Q.—Did you take any active part in that contest?

A.—Well, I have been a Republican, and a partisan of Governor Booth.

Q.—Did you take any active part in the Senatorial contest?

A.—Not very active.

Q.—Did you take any part in it?

A.—I did, sir.

Q.—What part did you take?

A.—Nothing more than was natural. I was all the time with Mr. Escandon, my friend. I said to him, I would like to redeem him from the Democracy, if I could, and bring him over to the Independent element.

Q.—You thought the especial duty devolved upon you of redeeming him from the Democracy?

A.—Not any special duty. I told him several times that I thought he would suit those who had voted for him, and those who had not, in his county, if he voted for Booth.

Q.—Who, if anybody, here in Sacramento or elsewhere, had asked you to try and get Mr. Escandon to vote for Governor Booth for United States Senator?

A.—Well, nobody had ever approached me to ask me to tell him to vote for Governor Booth.

Q.—At any time?

A.—Well, some men came to me and asked me——

Q.—What men came to you?

A.—I seen Mr. Tom Nosler; I met him——

Q.—What did Nosler say?

A.—He asked me if I thought Mr. Escandon would go for Mr. Booth. I told him it was a very hard matter to say.

Q.—How many times did Nosler come to you?

A.—Two or three times.

Q.—Had you known him when you lived in Placer?

A.—Yes, sir; I knew him in Michigan Bluff.

Q.—At the time Mr. Nosler came to you, did he map out any course to be followed by you in getting Mr. Escandon to vote for Governor Booth?

A.—None whatever, sir.

Q.—Did he suggest anything to you—any means to be used?

A.—No, sir; none at all.

Q.—What other parties came to you during this struggle, and asked you to try and get Mr. Escandon to vote for Governor Booth?

A.—I think Bill Higgins.

Q.—Higgins of San Francisco?

A.—Yes, sir.

Q.—What did Mr. Higgins say to you?

A.—The same thing—only to try to get Mr. Escandon to vote for Governor Booth.

Q.—Where did these gentlemen meet you?

A.—Sometimes here in the Capitol, sometimes down in the Orleans House, and the Union House. I never had any conversation with him more than three or four minutes long.

Q.—You never had any night meetings with them?

A.—No, sir.

Q.—Do you remember of any other person that came to you upon the same matter?

A.—I do not, sir.

Q.—Did you sleep with Mr. Escandon?

A.—Yes, sir.

Q.—The same bed—you occupied the same bed?

A.—Yes, sir.

Q.—Did you frequently talk to him in his room about his voting for Governor Booth?

A.—I did, sir; yes, sir.

Q.—Do you remember one night in particular when he told you that if you didn't stop talking to him about it that he would have to turn you out of the house, or words to that effect?

A.—Yes, sir.

Q.—How long was that before the Senator was finally elected?

A.—I do not remember; but it seems to me it was about the seventeenth of December.

Q.—What impresses upon your mind the fact that that was the seventeenth of December?

A.—It was only a few days, I think, a very few days, before the election.

Q.—What day was Governor Booth elected?

A.—I don't remember; I think it was about the twentieth.

Q.—That was three days before this?

A.—Something about that.

Q.—What impresses that fact upon your mind, so positively, that it was the seventeenth?

A.—Well, I'm not positive that it was the seventeenth.

Q.—You are not positive about it?

A.—No, sir.

Q.—Now, state to the committee what occurred that night in the room there between yourself and Escandon?

A.—That night we went to bed about twelve or half-past twelve. We both had more or less liquor in, as usual. He sat down on the sofa, and we got a talking; and I walked back and forth in front of him. He brought the subject up. I had failed, so far, to induce him to vote for Mr. Booth; but I was not discouraged yet; and I talked with him about it very earnestly; and he remarked to me: says he, Jimenez, says he, "If I was to vote for Governor Booth, or go outside of my principles, I don't think I would have the face to go face my family at home, to face my wife and children, or my friends." Then he complained that he was pecuniarily embarrassed to the amount of four thousand dollars or five thousand dollars; and that his business was going to the dogs; and he regretted very much that he had ever came up to this Legislature, for his absence would be ruinous to his business; he at times thought of resigning and going home. I told him not to despair, "If you get five or ten thousand dollars, says I, it will set you all right." Well, Mr. Escandon says, "How am I going to get that money?" Said I, "It is reported that Senator Jones has about three quarters of a million of dollars here to use in the Senatorial election." He was very indignant, and says, "Mr. Jimenez, you have got to stop that or go and sleep some where else;" but, said I, "I am not offending you in any way;" says he, "tell your friends if they offer me money, I will denounce them before the House;" said I, "I have no friends who are going to offer you any money." He cooled down a little, and I came out of the room and went and slept in a hotel. The next morning, I was going into the Bank Exchange Saloon to take my morning bitters, and I saw him there; and he called me to the bar and asked me to take a drink. I went and drank with him, and nothing more was said about it. I came up here with him, and was with him all the time that day; that afternoon we dined together. From that time I ceased to talk to him about voting for Governor Booth; and that is all there is in this, sir.

Q.—Did you not, in your conversation with him, state to Mr. Escandon that you could take him to a man who could get him five or ten thousand dollars for his vote for Governor Booth?

A.—No, sir.

Q.—That, you emphatically deny?

A.—Yes, sir.

Q.—Did you state anything like that in substance, or to that effect?

A.—No, sir.

Q.—Did you, at any time while you were here in Sacramento, with Mr. Escandon, state to him in substance that, or anything like that, in effect: that you could take him to a man, or men, that would give him five or ten thousand dollars for his vote?

A.—No, sir; I do deny that emphatically—if I was to lose my head for it; I never did it.

Q.—Did you, at any time while in Sacramento, state to Mr. Barron, a gentleman, I think, who resides on Second street in this city, that you had tried to get Mr. Escandon to vote for Governor Booth, and had offered him money, and that he refused it, and acted very foolish?

A.—No, sir.

Q.—And used offensive language?

A.—No, sir; I said to Mr. Barron—I said that if they had tried to get Mr. Escandon, that sacks full of gold could not have got him.

Q.—If they had tried. What occasion had you to state that to Mr. Barron: "If they had tried?"

A.—Because we were talking about the result of the election. This was some time after the result of the election, I think.

Q.—Why did you state to Mr. Barron: "If they had tried?" Whom did you mean by that?

A.—What I meant was, if Mr. Escandon had been offered——

Q.—By whom?

A.—Well, parties—I don't know who.

Q.—Well, what brought that up?

A.—Well, perhaps we were talking about the result of the election.

Q.—Do you remember what you were talking about?

A.—I do not remember at all, sir.

Q.—Then why do you think that was what you did state to him?

A.—Because that is the only word I used after the election was over.

Q.—Did you not state to parties residing near where you reside, in San Buenaventura, that you tried to bribe him?

A.—That I had said in San Buenaventura?

Q.—Yes, sir?

A.—No, sir.

Q.—Reflect a moment, sir.

A.—I have got nothing to reflect. I made the same remark down in San Buenaventura—that no money could be offered to Mr. Escandon.

Q.—What caused you to make that remark?

A.—Because they asked me how he stood—some Spanish people, friends of his, there.

Q.—Did they have an idea that Mr. Escandon came up here to be bought?

A.—No, sir.

Q.—What occasioned the talk down there about it?

A.—I don't know what was the occasion. I think they take interest in everything, just as well as other people does.

Q.—It appears that you became satisfied that you could not buy him—didn't you?

A.—Of course not, sir.

Q.—You became satisfied of that?

A.—How could I buy him?

Q.—You say you became satisfied you could not. How did you satisfy yourself of that?

A.—How could I buy Mr. Escandon? I was penniless here; I didn't have a cent; and was living here on his kindness.

Q.—But here is the point; direct your attention to this: you became satisfied you could not purchase him, and you say you so told Mr. Barron. How did you become satisfied, unless you had tried to buy him, and failed?

A.—What more can a man say—when a man does say that if he was going to vote against his party he could not face his children or family? What more can a man say?

Q.—When you did approach him that night, in the room, it was for the purpose of getting his vote?

A.—No, sir; I was with him all the time.

Q.—This night the conversation was more spirited than before?

A.—Oh, yes.

Q.—That night the contest was quite exciting?

A.—Not in particular, sir; not in particular.

Q.—Didn't you hold out any inducements to him to vote for Mr. Booth, and say that he could get five or ten thousand dollars if he would?

A.—I did not offer him any inducement.

Q.—Didn't you suggest that as a kind of inducement?

A.—No, sir; I think a man could pass a joke.

Q.—Oh, that is it? You say you were joking now, is that it? Do you mean the committee to understand that you were joking with Mr. Escandon?

A.—Well, certainly, I was joking with him most of the time.

Q.—Were you at that time?

A.—Yes, sir.

Q.—Then it was not intended to reach him? You didn't intend to reach him by this conversation?

A.—How intended to reach him? I have spoken to Mr. Escandon very often that I would like to see him vote for Mr. Booth.

Q.—You were working every way in the world to get him to vote for Mr. Booth?

A.—Not every way in the world, because I had no other way than working by words, as he was a friend of mine; that's all.

Q.—Do you know of any money, bank checks, or anything of value being offered to any person to vote for any Senator in the late Senatorial contest?

A.—I do not, sir.

Q.—Were you authorized by any person or persons, to offer money for a vote during the contest?

A.—Never, sir.

Q.—Were you authorized by any parties to offer inducements to Mr. Escandon to vote for Governor Booth?

A.—No, sir.

Q.—How many parties did you tell down in San Buenaventura, that you had tried to get Mr. Escandon to vote for Governor Booth, and had offered him five thousand dollars, and failed?

A.—I never did tell anybody so.

Q.—Now, was not this the fact, Mr. Jimenez; that that night when you were in the room there with him; the contest was narrowing to a close; votes were valuable. Did you not then and there tell him that you could take him to a man that would give him five or ten thousand dollars for his vote.

A.—No, sir; I have not.

Q.—And was not that the reason why Mr. Escandon got angry with you, and told you you must seek some other lodging?

A.—No, sir; he didn't get exactly angry with me; he only said that when I insisted upon talking about Governor Booth that I would have to go somewhere else to sleep—that he wanted to sleep. He was partially sick for want of sleep, as he had not slept well for several nights, and I left the room upon that account; but he was not sufficiently mad to say, "You must go out of here."

Q.—Did you come back then and stay the next night?

A.—Yes, sir.

Q.—How came you to come back the next night?

A.—I have said that the next morning, when he asked me to drink with him, I did so, and after that the conversation of the night before was not referred to, and we were as good friends as ever.

Q.—Did he ask you to go back and sleep with him?

A.—I came up here with him and went down town with him. We went to dine together, and then went to bed together; that's all there was about it.

Q.—Who gave you money to go home on?

A.—I borrowed ten dollars from a gentleman from San Francisco.

Q.—What is the gentleman's name?

A.—He is the City and County Attorney of San Francisco—Mr. Burnett—W. C. Burnett. I was penniless here and didn't have a cent. Mr. Escandon and I had had a little falling out one night.

Q.—What was the cause of that—another matter?

A.—Another matter; yes, sir.

Q.—Not connected with the Senatorial struggle?

A.—Not in the least; and when we parted and he left me I hadn't a cent in my pocket, and no place to go sleep. At last I went round to the place of a countryman of mine and got a dollar and went to bed that night. The next night I got some money from a gentleman here—he was here awhile ago; I think he is an Irishman; I think he was running for Sergeant-at-Arms.

Q.—Mr. Murray—Dick Murray, of San Francisco?

A.—I think it is; yes, sir; I was telling him that it was late, and asked him for four bits to get a bed; he gave me four bits; the next night I was standing at the Union Hotel, when W. C. Burnett came up; I told him I was anxious to get away from here; and I begged and asked him to lend me ten dollars; he said he hadn't the money with him, but if I would come to the Golden Eagle Hotel at eight o'clock the next morning, that he would give it to me.

Q.—The money for the rest of your expenses here was furnished by Mr. Escandon?

A.—Yes, sir.

Q.—He furnished the money also to pay your passage up here?

A.—Yes, sir.

Q.—How long did you continue to sleep with him after this night when you had the quarrel, before you had the other quarrel?

A.—I left here Friday, I think it was the sixteenth day of January, and continued to sleep with him until the Tuesday before that.

Q.—Did Mr. Escandon ever after that allude to what had passed between you that night at the room—did he afterwards ever allude to it—about the five thousand or ten thousand-dollar matter?

A.—No, sir; he never did, sir.

Q.—Have you talked with him about it since you came up this time?

A.—No, sir; I have not seen him.

Mr. Amerman—You say you have not talked about this matter with anybody in San Buenaventura?

A.—No, sir. Oh, I made the same remarks as I have in Sacramento here sometimes.

Q.—The time you left here to go home, you say you were furnished with ten dollars?

A.—Yes, sir.

Q.—Was ten dollars sufficient to pay your expenses from here to San Buenaventura?

A.—If I had gone on the river steamer that morning, it would have been; I could have gone down to San Francisco for two dollars from here, and the next day could have got down on the steamer for five dollars.

Q.—How did you return?

A.—I returned by the cars, sir. It was a very stormy day; the steamer got up here very late that day, and so I had to take the cars by the Livermore route. The information came that day, that the trestle-works of the bridge had been carried away by water, and then I was left here; and we heard that the snow sheds were on fire that day, and the train was behind time six hours, or something like that. I got into San Francisco at one o'clock in the morning, and stopped at the Russ House. The next morning I met Judge Lindley there. I had no money, and asked him to loan me five or six dollars, which he did, and I went right down to the steamer.

Q.—Did you receive your commission before you left Sacramento?

A.—No, sir.

Q.—Did you receive any promise of it before you left Sacramento?

A.—I did not. Mr. Escandon helped me to secure it.

Q.—Were you promised it before you left Sacramento?

A.—I say I applied for it, sir.

Q.—Were you promised the position?

A.—After I made application; yes, sir.

Q.—But you didn't receive your commission until after you got home?

A.—No, sir.

Q.—And you state distinctly to this committee that, after you returned home, you never mentioned to anybody at San Buenaventura that you had ever attempted to bribe Mr. Escandon, or offered him any sum of money whatever for his vote?

A.—No, sir; I have not. I have said, as I have said now—just boasting how staunch and how true Mr. Escandon had been to his party.

Mr. Coggins—Are you acquainted with Mr. (?), in San Buenaventura?

A.—Yes, sir.

Q.—Have you ever had any conversation with him?

A.—Yes, sir. I have said, as I have said here, that millions of dollars could not have got Escandon; that he was bound to go for his party; that if there was any money offered him for his vote, he would not have taken it.

Q.—Didn't you state to him that you had tried to induce Mr. Escandon, through means of money, to vote for Governor Booth?

A.—No, sir. I have praised his staunchness, and nothing else, sir.

Q.—You didn't say you would take him to a man who would give him five thousand dollars?

A.—No, sir, I did not.

Q.—Did you propose to take him to any man that night?

A.—No, sir.

Q.—Didn't you ask him to leave his room and go and be introduced to some friend of Booth's?

A.—No, sir.

Q.—Did you know, at that time, any one who was depending in any way upon the result of your interview with Mr. Escandon?

A.—No, sir.

Q.—You knew of no one—no one had spoken to you that day of inducing Mr. Escandon to vote for Governor Booth?

A.—I had not separated that day from Mr. Escandon at all.

Q.—What induced you to name that sum to him?

A.—As I said before, it was currently reported that there was a great

deal of money in the fight. It was a public affair here in Sacramento. It is always the case in an occasion of this kind.

Q.—Did you know anybody who had control of any portion of that money?

A.—No, sir; I do not, sir.

Mr. Norton—Do you know W. W. Dodge, of San Francisco?

A.—I formed his acquaintance through Mr. Escandon, in Sacramento.

Q.—Then you know him?

A.—Yes, sir.

Q.—What time did you form his acquaintance?

A.—Oh, soon after we came up here.

Q.—Soon after the commencement of the session?

A.—Yes, sir.

Q.—Did you talk with him about the Senatorial fight?

A.—No, sir.

Q.—Did he talk with you?

A.—No, sir.

Q.—Not a word?

A.—No, sir; nothing. All the talk that we ever had Mr. Escandon was present.

Q.—You didn't talk with anybody, when Mr. Escandon was not present?

A.—I say I was with him all the time, sir. I was then looking for a situation, more than anything else. I was not talking about the Senatorial fight.

Q.—Did you talk with Dodge at all about this Senatorial struggle?

A.—I don't remember whether I did or not, sir.

Q.—You don't remember?

A.—No, sir.

Q.—Mr. Coggins asks you if you knew of any man or men that had means to use in the manner described. Did you know of anybody that had any money to use in the Senatorial fight?

A.—No, sir. I didn't know of anybody. I never had offered anything myself.

Q.—It was just idle rumor, was it?

A.—Yes, sir.

Q.—Jones was in town with a quarter of a million—is that it?

A.—Yes, sir; something to that effect.

Q.—How long after Jones' arrival was it that you told Mr. Escandon that you might get five or ten thousand dollars to pay off the incumbrance on his property?

A.—I never said that, sir.

Q.—What was it you told him?

A.—I told him that he might get five or ten thousand dollars, in a joking way; or, "if you could get five or ten thousand dollars, it would set you all right," or words to that effect.

Q.—How came you to say that he could get five or ten thousand dollars?

A.—I don't know; just according to the rumor that votes were in demand.

Q.—How did you know that they were in demand?

A.—Well, I heard the expression in Sacramento; that is about all.

Q.—Whom did you hear say that?

A.—I don't remember anybody, sir.

Q.—Who told you that Jones was here with three fourths of a million?

A.—I heard it around the streets, sir.

Q.—What were votes worth before Jones came here?

A.—I don't know anything about it, sir. I don't know that anybody was for sale, or not.

Q.—Who told you that Jones was here?

A.—I never said that Jones was here; I heard that he was coming.

Q.—Oh! that was before he arrived?

A.—I don't know whether it was or not. I don't know Mr. Jones.

Q.—Did you try to find out whether Jones had arrived or not?

A.—No, sir.

Q.—Have you read the testimony given by Mr. Escandon, before this committee?

A.—Yes, sir.

Q.—You were aware, then, that he stated under oath, before the committee, that you told him, in substance, that night, that you could take him to a man that would give him five thousand dollars, or ten thousand dollars, for his vote?

A.—I have stated to him that the next morning after this trouble I came to him and said I would take him to the man.

Q.—That was the next morning, was it?

A.—I think that is what I read in the paper—the next morning.

Q.—Was that true?

A.—No, sir.

Q.—It was false, was it?

A.—Yes, sir.

Q.—You made no such statement to him?

A.—No, sir. As I have stated, I was going to get my bitters, at the Bank Exchange Saloon, and had ordered a drink, and he asked me to come in and take a drink with him; and from that time I never said a word to him about it.

Q.—You say, at no time did you make such a proposition to him?

A.—No, sir; except as I was joking in the room, as I have already said; that is all I have ever said.

Mr. Norton—I hold in my hand a letter, which seems to be written by a friend of Mr. Escandon, at San Buenaventura—Frank Peterson, who is Sheriff. It is a statement of another person to him of what this witness has stated to another party. It is hearsay; but if the committee deem it best to examine him in regard to it, I will do so.

Q.—Do you know a man in San Buenaventura by the name of Flavel Campo?

A.—Yes, sir.

Q.—Is he a countryman of yours?

A.—No, sir; he is a countryman of Mr. Escandon's.

Q.—Have you ever had any conversation with him since you returned there about your offering to Mr. Escandon eight thousand dollars or ten thousand dollars if he would vote for Governor Booth?

A.—I don't believe I have done it, sir.

Q.—If you had, you would now remember it?

A.—I think so, sir.

Q.—This is a matter of decided importance. Have you so stated to Mr. del Campo, at any time since you returned there? This letter is from the Sheriff—from Mr. Peterson. He says: "I have just had a talk

with Flavo del Campo. He says that Jimenez told him that he, Jimenez, told you that you could make eight or ten thousand dollars if you would vote for Booth, and that he urged you to do it; but that you told him that if he was a friend to you, never to mention it again. Flavo says that he has a great notion to go up anyway. Everybody is your friend. You must have Flavo subpoenaed." The Sheriff wants the committee and Mr. Escandon to move in the matter, and have Flavo brought here. Did you ever state anything of that kind to him?

A.—I have only stated, as I have stated here, that no regard for his friends, nor no money that could be offered to him, would make him vote against his party. If I have said anything, it has been more with the spirit of establishing the character of Escandon than anything else.

Q.—Then, when this man told the Sheriff that, he didn't tell the Sheriff the truth?

A.—Perhaps he may have misunderstood, sir.

Q.—You emphatically deny having stated to him that you told Escandon that he could make eight thousand dollars or ten thousand dollars if he would vote for Booth?

A.—Then I am increasing the price, now.

Q.—Do you deny having said anything of that kind?

A.—I will say just what I have said before: I deny that I said more than I have stated already.

Q.—Answer my question. Do you deny ever having stated anything of that kind to Flavo del Campo?

A.—Yes, sir.

Q.—Do you deny that you told him, in the same conversation, not to mention it again?

A.—Yes, sir.

Q.—You deny that, also?

A.—Yes, sir.

Q.—You have no other admission to make to the committee, except what you have already made to the committee?

A.—That is all, sir; that is all the admission.

Q.—Did the conversation you had with Flavo del Campo occur when you and he were alone?

A.—I know nothing of it; I do not remember, sir. I tell you that as soon as I left here—

Q.—I don't care to go over that ground again. Was that conversation had with him alone?

A.—I do not remember, sir, whether we were alone, or there was anybody else there.

Q.—Mr. Peterson, the Sheriff, says that del Campo tells him that seven others heard the same.

A.—Well, I don't know, sir; it might be twenty.

Q.—It might be twenty others that heard you?

A.—I don't know, sir.

Q.—They could not hear it if you hadn't stated it.

A.—Well, I don't know about that.

Q.—You don't deny now having stated it, do you?

A.—I don't mean anything of the kind, sir.

Q.—What do you mean?

A.—As I stated before, I was trying to make a good deal for Mr. Escandon, for his faith to his principle.

Q.—That was all, then; all you said was to try and boost Mr. Escandon up?

A.—Yes, sir.

Q.—And that, too, after you had stated to him that if he could get five thousand dollars or ten thousand dollars for his vote, he could be relieved from his pecuniary embarrassment?

A.—No, sir.

Q.—You didn't state that?

A.—No, sir; I stated that if he could get five or ten thousand dollars it would be very good.

Q.—Why would it be very good? You say you stated it at that point of conversation where he was talking about being heavily involved.

A.—Well, I done it, sir, in a joke; that is what I state over again, sir.

Q.—It was all a joke?

A.—If I had been authorized by anybody to offer him money——

Q.—Were you joking with him when you were talking about his voting for Booth all the time?

A.—Well, no; sometimes I just passed some remark, just to fool him.

Q.—Who was back of you?

A.—Nobody; I done it of my own accord.

Q.—Didn't Tom Nosler say anything to you about it?

A.—He told me, as I stated before, that he would like for me to get him to vote for Booth.

Q.—How much did he tell you to suggest to Mr. Escandon that he could make?

A.—He never said any word of that kind, sir.

Q.—How did he propose to get him?

A.—I told you how that was, sir; I stated to Mr. Escandon several times: "Some persons think I must necessarily have a great deal of influence with you."

Q.—I don't understand your explanation, I confess. Tom Nosler wanted you to work with Escandon? How did he want you to work with him? By using your persuasive powers, simply?

A.—Yes, sir.

Q.—He told you to stick to him like a leech?

A.—No, sir; he never said anything of the kind.

Q.—What did he tell you to do?

A.—Well, to mention the Governor to him.

Q.—Didn't Tom Nosler know that Escandon knew that Mr. Booth was a candidate?

A.—Well, I suppose he did.

Q.—What did these other men—what did Mr. Higgins, of San Francisco, say to you?

A.—Only the same thing—if I could not get Mr. Escandon to vote for Mr. Booth; that's all.

Q.—Why did they come to you?

A.—Because they saw me with him all the time, sir.

Q.—Did Mr. Higgins approach you in the same way that Nosler did?

A.—Yes, sir; I said to Mr. Higgins that Escandon would die like a soldier on the ramparts—that he would be true to his party.

Q.—Did he tell you that before you proposed the five or ten thousand dollars to him?

A.—Yes, sir. I have often said that Escandon always said he would rather die there with his party, like a good man, and his friends who

elected him would think better of him for that; and he was the only representative of the Spanish race in the Legislature.

Q.—Why should they think so?

A.—I don't know.

Q.—Was it the impression down there that he could be bought?

A.—No, sir.

Q.—Did you have that impression when you came up with him?

A.—No, sir; I never did have it.

Q.—He paid all your expenses, did he?

A.—Yes, sir; every cent; I eat through his kindness.

Q.—And then joked with him simply by saying you could make five or ten thousand dollars if he would vote for Mr. Booth?

A.—Well, that was a passing remark, sir; that's all.

Q.—It seemed to affect him in such a way that he ordered you out of the house?

A.—I think it was afterwards that I remarked this much, sir: "What made you be so glad when we got the news up here that Casserly had resigned?" He said: "Well, never mind. Did I ever tell you that I would vote for Mr. Booth?" "No, sir," I said, "you never did."

Q.—Did you talk with him, at the room, every night about Governor Booth?

A.—No, sir; we talked on different subjects.

Q.—You cannot remember what your conversation with Mr. Dodge was about?

A.—Well, sir, I don't think I ever had a conversation with him for more than three or four minutes. We were dodging all the time, because he didn't want to be where there was a crowd.

Q.—During your stay, were you introduced to Governor Booth?

A.—Yes, sir. One day we went to his house. The Governor was playing billiards, in his billiard room, there, and I saw him for a very short time.

Q.—How long was that after he was elected—was it long afterwards?

A.—No, I don't know but it was before; no, it was after.

Q.—Had you been introduced to him before his election?

A.—No, sir.

Q.—Did you go with the parties who were working to get your appointment, as Notary Public, to the Governor's room?

A.—No, sir.

Q.—That was Mr. Escandon and Lieutenant Governor Pacheco who influenced Mr. Booth to give you your commission?

A.—Yes, sir.

Q.—That was promised you before he was elected?

A.—Yes, sir.

Q.—But you really received your commission afterwards?

A.—I received it, sir, about the fore part of this month, I think.

Q.—Did you have more than one interview, or see Governor Booth more than once, while you were here?

A.—We went to see him on the night of his reception. I and Escandon went there together.

Q.—Those two were the only times you did meet him?

A.—Yes, sir.

Q.—You didn't go into his room here, in the Capitol building?

A.—No, sir.

Q.—You didn't go with the Lieutenant Governor and Mr. Escandon, when they went there?

A.—No, sir.

Q.—You intrusted that business to them alone?

A.—Yes, sir.

TESTIMONY OF RICHARD MURRAY.

RICHARD MURRAY, called, sworn, and examined:

The Chairman—Please state to the committee what you know in regard to these charges of bribery and corruption, and answer such questions as they may ask you in regard to the matter.

Mr. Norton—Where do you reside, Mr. Murray?

Answer—In San Francisco, sir.

Question—What is your name?

A.—Richard Murray.

Q.—How long have you resided in San Francisco?

A.—Since eighteen hundred and sixty-three.

Q.—You have resided there since eighteen hundred and sixty-three?

A.—Yes, sir.

Q.—What business have you been engaged in?

A.—I am a carpenter, sir.

Q.—Do you follow that business for a livelihood?

A.—Yes, sir.

Q.—And have followed it since eighteen hundred and sixty-three?

A.—I have followed it, since I came to the United States, all the time up to the present.

Q.—Were you here in Sacramento during the late Senatorial struggle?

A.—Yes, sir.

Q.—What brought you to the city?

A.—I came up here, on the twenty-eighth of November, as a candidate for Assistant Sergeant-at-Arms for the Assembly.

Q.—You first came here on the twenty-eighth of November?

A.—Yes, sir.

Q.—How long were you engaged in that struggle?

A.—Well, I was engaged—I was beaten; that was Wednesday.

Q.—The Wednesday following the commencement of the session?

A.—Yes, sir; on the third day of December.

Q.—Monday being the first day of December?

A.—Yes, sir.

Q.—What business did you then center upon, if any, in the city?

A.—After I was beaten for that position, sir?

Q.—Yes, sir.

A.—Well, I was a kind of a sorehead for a few days.

Q.—You went into the business of being a sorehead? How long did that stick by you?

A.—Well, about two days, sir.

Q.—And after two days you righted up?

A.—After two days I righted up, and went to surveying the situation on the Senatorial fight.

• Q.—How did it look to you?

A.—It was very gloomy.

Q.—Gloomy for whom?

A.—I didn't know exactly; it looked gloomy for all parties at the

time. Mr. Casserly resigned, I didn't know whom I was for, and was like a ship without a captain.

Q.—How long did you remain in that condition?

A.—Well, till about Saturday, the sixth.

Q.—Saturday you determined?

A.—I determined; and I went down to see Mr. Casserly, at the Arcade.

Q.—The Arcade in this city?

A.—Yes, sir. After going in, I asked him who was the most available candidate. He said to me, "Richard, you are not in the habit of asking a great many questions." I said I might go for somebody whom my friends would not be for. He said that was very well, it was always my way to do, to go for my friends. I mentioned all the candidates that were in the field, and asked him which would be the best man for me to go for. He told me that I had better hold off for a few days, until things developed themselves.

Q.—Did you wait?

A.—I waited till the next day.

Q.—Had they developed?

A.—Well, parties tried to develop me, and I wanted to see what I would do with them.

Q.—Who were the parties that wanted to develop you?

A.—Well, the venerable Senator from San Francisco, Mr. Roach, came to me at the Golden Eagle Hotel, on the outside, and he says: "Let's take a walk up the street; I want to talk with you." We went up as far as I street and Seventh, and he told me that he was a candidate, and talked the matter over, and talked about his record when he was Mayor of Monterey, and his record when he was Senator, and his Chinese record, and said he thought he stood well with the people, which I freely coincided with him that he did. He said they would be satisfied with his election. I said I thought so, too. After we got back, Mr. Wand came for me, as angry as a wolvereen, and wanted to see what Mr. Roach wanted. He said: "Is he a candidate for the Senate?" I said, "Yes, he is a candidate." He said, "The idea of his being a candidate—a man without a dollar in his pocket." He said, "I must go to see him, and try to get him to withdraw from the fight;" and he said that Mr. Roach had already partly promised that he would not run. I said I would see what I would do, and he said, "Well, let's take a drink," and we did so. Then he said, "Well, I am going to San Francisco; my children are taken down with the scarlet fever, and I will be back in a day or two." He says: "Hager has always been a good friend of yours, and if you make up your mind to go for him, I will see that you are all right." Not knowing who would be the most available man, I then consented to go for Mr. Hager. Wand said, "I tell you if you go for Judge Hager, I will see that your expenses are paid, and that you will be paid for your time besides."

Q.—Was that before the election?

A.—Yes, sir; that was on Tuesday, the seventh day of December.

Q.—How long did he remain in San Francisco?

A.—From the seventh to the seventeenth of December.

Q.—On the seventeenth he returned here?

A.—Yes, sir; in the night.

Q.—Mr. Murray, who had rooms with him at the Golden Eagle Hotel?

A.—Well, it was a kind of privy council affair; there were a great

many were in and out there; I was there but two or three times in my life.

Q.—Was L. L. Bullock with him?

A.—Yes, sir.

Q.—Had the rooms together?

A.—Yes, sir; they used the same room.

Q.—Who were they working for for Senator for the short term, Bullock and Wand?

A.—Mr. Wand said he was solicited to take the nomination himself.

Q.—Who were they working for?

A.—First off, he was working for Lewis; I said, "My God! the idea of running a mustang like him to take the place of Casserly, and without a dollar, too!"

Q.—Now, did Mr. Wand and Mr. Bullock eventually work for Hager?

A.—Yes, sir.

Q.—When did they first commence working for him?

A.—Wand was for him from the first day he came up on the first of December; he was for him and wanted me to go for him, and I wouldn't say yes or no until I got over my own fight.

Q.—And finally you got into the field for Mr. Hager?

A.—Oh, yes, sir; fully armed and equipped.

Q.—Were you working for Hager while Wand was in San Francisco?

A.—Yes, sir.

Q.—Was Mr. Bullock here?

A.—Mr. Bullock came here on the eleventh of December, and he stopped here all the time up to the eighteenth.

Q.—What time did the election occur for the Senator for the short term?

A.—Hager was elected on the twenty-third day of December.

Q.—Now did Bullock stay here all the time, up to the election?

A.—No, sir.

Q.—How long was he here?

A.—He went down on Thursday, the eighteenth day of December, and came up again on the nineteenth, which was Friday, the next day. He told me he was up at Judge Hager's all night the night before.

Q.—Who did you work with—what votes did you try to obtain, if any, for Senator Hager?

A.—I talked generally.

Q.—Did you talk to anybody in particular—did you single out any person to go for?

A.—No, sir; I did not.

Q.—You simply talked generally?

A.—Yes, sir.

Q.—Did neither Mr. Bullock nor Mr. Wand state to you, during the time they were here, and while the struggle was going on, that there was any money in the fight?

A.—Yes, sir; I have not got to that part, yet, sir.

Q.—I ask you?

A.—Yes, sir, they did. I will tell you how that came: On the twentieth day of December, when Governor Booth was elected, when the joint convention went in to vote on the short term, I was outside, and there was two gentlemen sitting near me, and when Mr. Murphy's name was called, he voted for Governor Downey. I knew one of these gentlemen, and he said to his friend that the reason Mr. Murphy voted for Downey was because he was an Irishman and a Catholic, the same

as Mr. Murphy was. I spoke up, and said that I didn't believe that such was the case, and I instanced the fact that Colonel Roach, Mr. Dixon, and Mr. McBride, were also Irishmen, and, so far as I knew, they were Catholics, and I didn't think that was the reason why Mr. Murphy voted so. And then I expressed my surprise, that a gentleman of his judgment and experience should make such an assertion.

Q.—That is not coming to the point?

A.—Then I will come to the point. I met Mr. Murphy afterwards, and then told him of the conversation that took place up here. He said that it was not the case; that no such reasons had influenced his vote. He said that Judge Hager, at one time, when he saluted him, paid no attention to him, and he would not recognize him; and he had said that he would not vote for him, and he didn't think he would. I went down with the intention of sending a dispatch to Judge Hager and met a friend of mine, Henry Casey, who said he was going down to San Francisco that day, and I told him about this matter, and, because he was a friend of mine and of Judge Hager, I asked him to go and tell Judge Hager about this, and impressed upon him the necessity of seeing him that night. He said he would. Wand came up the next day and said he had seen Judge Hager and told him how nobly and honorably I had worked for him, and he said that the Judge was more a friend of mine than ever.

Q.—Judge Hager?

A.—Yes, sir.

Q.—What did he allude to?

A.—Well, being a ward politician—we can, sometimes, do a good deal of service or a great deal of harm. He said he was sorry that Farley got the nomination, and that Judge Hager would spend fifty thousand dollars, in a legitimate way, to get elected. The next day he gave Murphy a note, from Judge Hager, in the Assembly chamber, in his seat. The next day I met Wand in the Senate. He said, "It is mighty strange that Murphy didn't vote for Hager, since I gave him Mr. Hager's note;" so he impressed upon me, then, the necessity of seeing Mr. Murphy again. I think he said, that if his vote was necessary to change the result and elect Hager, he would not have given it. I came back and told Mr. Wand what Murphy told me. "Well," he said, "it was too bad that he would not vote," and said, "you had better go and see him again." He said, "There are five or six Republicans that will, if necessary, change and go for Hager."

Q.—Who were they?

A.—He said there is a Republican who has charge of the Republicans, and he will give his—

Q.—Who did he say that gentlemen was that had charge of the Republicans?

A.—He said Mr. Nat. Broughton. Wand said there is something that, if it has to be done, I could not do. I said, "What do you mean?" He said, "Any money that has to be dispensed must be given by some one besides me, because if I did it, it would kill me if it was known."

Q.—He said that any money that was to be dispensed must be paid by somebody else beside him?

A.—Yes, sir.

Q.—How came he to make that remark?

A.—I asked him to go and see Mr. Murphy himself.

Q.—There must have been something said about money?

A.—No, sir.

Q.—What called for that remark from him, then, if no money was to be dispensed?

A.—The conversation was just what I have stated.

Q.—You simply spoke of going to see Mr. Murphy?

A.—Yes, sir.

Q.—Had he authorized you to use any money—to offer any to Mr. Murphy?

A.—No, sir; not at that time.

Q.—Did he at any time?

A.—No, sir.

Q.—What?

A.—No, sir.

Q.—Did he at any time?

A.—No, sir.

Q.—What do you mean by saying, "Not at that time?"

A.—Well, I have reference to something else.

Q.—Well, go right to that—Mr. Murphy. Did he not authorize you, or state to you—either Wand or Bullock—that it was getting near the holidays, and——?

A.—That is not to the point yet; this is another affair.

Q.—Come right to that, sir.

A.—Well, I went and told Mr. Murphy what Mr. Wand told me. He said, "I will have nothing to do with Nat. Broughton, and Nat. Broughton will have nothing to do with me." After leaving him, then I went to the Golden Eagle Hotel to see Mr. Wand, I met him there, and he said, "Take a drink." I said, "No." I didn't care to drink then. He said he would see me in a few seconds, and he went away and went up to his room, and I didn't see him again that night. When I met him the next day I was a good deal angry on account of his treatment the night before, because he did not come down and meet me again as he promised. He said he forgot all about it. I said, "I will go to-morrow and declare for somebody else." They begged of me to keep quiet; but I said, "It's all right, gentlemen," and I said good night; but Bullock followed me out and said, "Now, Dick, don't be in a hurry; you keep quiet about this matter." He said, "You go and see Mr. Murphy and see what he will take; and if Mr. Fahey goes to-morrow against Hager, we must go for him, because I would not lose this fight for ten thousand dollars." Said I, "Well, what shall I do then." He said, "Come back and let me know what he says." He said, "It is getting on to the Christmas holidays, and they cannot be very flush; and if they will vote for Hager, we will give them two hundred and fifty dollars apiece. If the son of a b——h takes it"—gentlemen, I am not in the habit of using such language, but this is just what he said—"if the son of a b——h takes it, and we nip them, you shall have plenty of money for chicken feed for the holidays."

Q.—Was anything said about where the money should be deposited?

A.—Oh, yes, sir; yes. He said then he would take this money and put it into D. O. Mills' Bank. I said, "Why, is it nine o'clock; how can you get into the bank at this time of night?" "Well," he said, "I will give it to you to keep, because I don't know of a more honest man in this State."

Q.—He was going to pay this money over to you, if you would get these men to vote for Hager?

A.—Yes, sir. I went down Second street, between ten and eleven o'clock that night, and met Mr. Murphy, Mr. O'Neill, Mr. Agnew, and

several other gentlemen from San Francisco, standing on the sidewalk conversing together. I told them: "If you have come up here to elect Governor Downey, you have made a mistake." And then we had a few other words of conversation. Then I called Mr. Murphy to one side, and told him what Bullock had told me. Mr. Murphy said: "Both Bullock and Wand are two d—d scoundrels."

Q.—You didn't go through with the whole conversation that you had had with Bullock—you didn't recite all that to Mr. Murphy?

A.—Yes, sir, I did; and Mr. Murphy said: "Bullock and Wand are two d—d scoundrels."

Q.—How much money did they pay you while you were here—Wand and Bullock?

A.—Well, I will state to you the candid facts in regard to that matter. Mr. Wand, on the eighteenth day of December, he called me out of the Assembly chamber, outside, and he gave me ten dollars. That was the first money I ever received from him.

Q.—Was that before you had agreed to go for Hager?

A.—No, sir; this was on the eighteenth.

Q.—That was after you had your fight all arranged?

A.—Yes, sir. He was away in San Francisco from the seventh to the eighteenth, and then on the eighteenth, in the morning, he gave me that ten dollars on the outside here. That afternoon, when the joint convention adjourned, I met Bullock at the corner of Tenth and K streets. He says: "Let's go in and take some oysters." He said he was going down to San Francisco on important business that night, to see Judge Hager. When we had the oysters, he took out his pocket-book and handed me a five-dollar piece. He said: "I'm sorry I can't give you more;" "but," he says, "when I come to see Judge Hager, I will tell him what you have done." That was the first time I knew that this gentleman was much interested in this matter. When he came up here first, he told me that him and some other parties wanted to get certain bills through the Legislature to aid him in some liquor arrangements—some liquor business that he was going into. Then on Sunday, the twenty-first—

Q.—Let me ask you, Mr. Murray; during the time that you were here in Sacramento, have you asked either of them for money?

A.—Yes, sir. On the seventh of December, when Mr. Wand told me to stop here and do what I could for Hager, I said: "Mr. Wand, I have been up here nine or ten days, and am not very flush, and pretty nearly broke." I said: "I'm going to work, and I want some tools." He said: "When I come back, all your bills will be paid." Then on Thursday, the eighteenth, he gave me ten dollars here, the same day I got five dollars from Mr. Bullock.

Q.—How much did you get in all from the two men?

A.—I got ten dollars from Bullock and twenty from Mr. Wand.

Q.—Making thirty dollars in all?

A.—Yes, sir.

Q.—That you received here in Sacramento?

A.—Yes, sir.

Q.—At the time that Bullock told you to go and see Murphy, and propose to him to give him two hundred and fifty dollars if he would vote for Hager, at that time was any money offered to them?

A.—No, sir.

Q.—What kind of money did they represent that they would need? Gold notes, or gold coin?

A.—O! Sometimes there wasn't four bits to be spent, only in the legitimate way.

Q.—And other times?

A.—And other times, when they would be excited about the matter, and wanted to get this matter carried through, they said that Hager would not lose this fight for ten thousand dollars.

Q.—Who was going to pay this money to Murphy and Fahey? Who was to put up that money?

A.—Bullock told me he would put it up.

Q.—And told you to secure it, he would have it deposited in D. O. Mills' Bank that night, did he?

A.—Yes, sir.

Q.—And you called his attention to the fact that it was too late to deposit that money in the bank, and then he said you might take the money?

A.—He said I should come back that night, and he would give me the money, if they accepted it.

Q.—The money for both Murphy and Fahey?

A.—Yes, sir. They were to get five hundred dollars—two hundred and fifty dollars apiece. I have never spoken to Mr. Fahey about this matter, in any way, shape, or form.

Q.—Mr. Murphy treated the matter with perfect indignation?

A.—He did, sir.

Q.—Did you report to Wand or Bullock what Murphy had said about it?

A.—Yes, sir; I told them afterwards.

Q.—How many votes did they say, of the Republican party, that Mr. Broughton held—more than five?

A.—They said there were five or six.

Q.—Did you explain that matter to Mr. Murphy?

A.—I did, sir.

Q.—He treated that with contempt, also?

A.—Yes, sir.

Q.—These were the only two interviews that you had with Mr. Murphy about that?

A.—That is all, sir.

Q.—After that fight was over, you returned to San Francisco?

A.—I did, sir; on the twenty-third of December we all went down to San Francisco.

Q.—Mr. Wand says, in substance, that after you returned to San Francisco, you wanted money of him. State to the committee how much and for what purpose you wanted it?

A.—I was told when we would go to San Francisco, and when the bills were settled, that all amends would be made. Judge Hager said he would pay everybody that was interested in his fight—that they would be paid. After the election they sent dispatches to Judge Hager. It is always the case that the General, after a battle, treats the men with a great deal of courtesy; but after Judge Hager won this fight, these men turned against the men who had helped them. I was afraid we might get into some trouble about the matter, and I went down to the cars. We went down on the cars, and I seen Mr. Bullock at the bar of the boat just before we reached San Francisco, as we were passing by Goat Island, and said: "Now this excitement is over, these things

may as well be settled." "Well," he said, "I will see Judge Hager tomorrow, and in the course of a day or two everything will be all right." "Well," said I, "how about that chicken feed? I want to have that." He said, "all right, you shall have it." On the twenty-fourth I met Mr. Bullock; he said he would see Judge Hager, and see that the bills were paid, that he had not been able to see the Judge before. I then came to the conclusion that both Wand and him were untrue. I found out that this man was like the fifth wheel of an artillery wagon. I went after him several times, and he dodged me; I could have done almost anything then, I was so mad. Mr. Bullock told me to come down to his office on Christmas day and get the money. I went down there at ten o'clock on Christmas day, and stopped there till twelve, and then I saw him coming from Wells, Fargo & Co.'s office. I went after him, and he dodged me for a couple of hours, and finally I found him. I asked him if that was the way to treat me after what I had done in Sacramento. I told him there was holes in my boots, from running around here, and I wanted a new pair of boots. He told me it would be all right the next day. I went the next day—no money. He gave me five dollars on Saturday, and then he said he would give me some on Monday; but on Monday, the Judge's family had got sicker. I saw him again on Wednesday, the thirty-first of December, and he said: "Dick, I have no money, but I will go out and borrow twenty dollars for you;" and he did so. He said: "I have borrowed this for the present, and you shall have more as soon as I can get it." I looked at the money; there were three fives on D. O. Mills' bank at Sacramento, and one was on another bank. He said, "there was going to be a reception at the Cosmopolitan Hotel, and Judge Hager was going to show those gentlemen that he wasn't stingy." On the twenty-second day of January, I came down Montgomery street, and pretty near the corner of California and Montgomery, Mr. Wand hailed me. He said, "Dick, I want to see you." Said I, "I wanted to see you for the last ten days." He said, "I was sick." I said, "The old sickness. Kentucky wines made you sick." Well, he said, "Judge Hager is going to have a reception at the Cosmopolitan Hotel;" he said, "I have been down after the evening papers, which state that this is to be the case. You must come down," I said, "No; I don't care about going up there. Gentlemen will be there in good suits of clothes, and mine are not very good, and I don't believe I will come." Well, he insisted upon my coming up, and I went up, and went into the parlor. Judge Hager and this big gormandizer, Bullock, sat there. They both shook hands with me. Bullock said he had been seeking me. I took a cigar and was about to leave, when Bullock requested me to come back later, because the reception would last until three o'clock. Then we had another conversation about this chicken feed that I was promised, and about my expenses and about my pay. Well, he says, "We will settle this business tomorrow." I met Mr. Wand after that, and we talked this matter over; and he talked in that broken way, like a Liverpool coalheaver, and I never heard the like before. "Now, Dick," he says, "don't say anything about this; I have political aspirations, and if the *Chronicle* got hold of this, it would be very bad for me."

Q.—Mr. Wand states that he gave you fifty dollars for running with messages, and so forth?

A.—I was just going to state about that.

Q.—Was that so?

A.—Well, when he talked that way, that night, I picked up my hat.

As I was going out, he said, "Will you do me a favor, Dick? You know most of the Senators and Assemblymen; if you see any of them, be so kind as to tell them to call upon Judge Hager," and he said, "most particularly Senator Roach, because he may feel a little riled about not getting the nomination." Then I went down the street and I met Mr. Roach, and asked him if he had been down to the reception. He said he had not; that an invitation had been left at his place, but that Johnson had failed to give it to him. He said, "Come with me." It was then half-past two o'clock. I saw Mr. Wand again, and he said, "Don't you go away. I want to see you, Dick." Then, when we were alone, he said, "Now, Dick, I will give you something. When the bill comes up for this reception, I will add fifty dollars to it for you." Said I, "Is that the way that I am going to be treated?" Said I, "I shall go to see Judge Hager myself. If Judge Hager tells me that I am not entitled to anything for my services, very well; but I will have you add fifty dollars to no man's lunch bill for me." Said he, "I will tell him that it is for you; and when he gives it to me I will give it to you."

Q.—Did he pay you the fifty dollars finally?

A.—Yes, sir. This was on a Saturday, and he told me that he would get the check on Monday. I had came back to the Cosmopolitan Hotel at his particular request; but when I came back, he said it was too late to see Judge Hager that day to get the check. I told him I had to go to Sacramento, and he gave me fifty dollars; and he said: "When I get this money, I will take the fifty dollars myself."

Q.—Did you go to see Judge Hager?

A.—I did, on the nineteenth of January.

Q.—Did you and Judge Hager talk the matter over?

A.—Yes, sir.

Q.—Was there any disagreement between you?

A.—No, sir.

Q.—What did he say about the matter?

A.—I told Judge Hager that I deemed it my duty to come and tell him what I had received for my services at Sacramento. Said I, "When these bills are made up, I may be put down for something I didn't receive." I said I had received thirty-five dollars from Bullock, and seventy from Wand; that is one hundred and five dollars.

Q.—That included the fifty dollars from Wand?

A.—Yes, sir. Now, Mr. Wand says—it is given in the *Union*, the most reliable report of his evidence—that he employed me for two days to go and deliver papers and invitations.

Q.—Is that so?

A.—I never delivered an invitation, sir, to any man; if there is one Senator or Assemblyman that can come forth and say that I delivered any to him, you can pronounce me the biggest perjured liar in the country; such was not the case, sir.

Q.—Did you have a conversation with Mr. Wand in front of his store, or in his store?

A.—I did, sir; on the nineteenth of January, as I said, I went up to see Judge Hager, and the Judge said, "You go and see Mr. Wand, and whatever he says, I am satisfied with;" said I, "he is a kind of a shrimp-skanker of the first water." "Well," he says, "you go and see him, and whatever he says will satisfy me."

Q.—Did you have any angry words with Judge Hager?

A.—No, sir; he asked me if I could inform him where Anthony's

Hall was on Bush street, somewhere; he was going to speak before the mechanics there that night.

Q.—He was going down to address the mechanics?

A.—Yes, sir; on the nineteenth of January.

Q.—Did you walk down with him?

A.—No, sir; he said, "I am going to Anthony's Hall," and I said; "Well, Judge, you can go your way, and I'll go mine."

Q.—There was no ordering away about it?

A.—No. Judge Hager never said a word to me to "leave my house;" he was kind and gentlemanly towards me, and I pronounce this man that made that assertion a perjured liar.

Q.—Did you have a conversation with Mr. Wand after that time?

A.—Yes, sir; on the second of February.

Q.—Where was that?

A.—In front of his store, on Front street. I went to his store between twelve and one o'clock; I went into his store, and said, "Is Mr. Wand in?" They said, "No, sir."

Q.—Wand was not in?

A.—No, sir. I then went out, and went into the next store south, where I was acquainted, and after exchanging a few words with the foreman there, I left. He told me not to go. I said I must see Wand. Then I saw him coming up the street, and I went out and met him on the sidewalk, and we had a conversation.

Q.—Did you there tell him you would expose this matter?

A.—I told him, "I want to see what you are going to do in this matter." He said, "Let this matter go to hell, and I shall make you a present of a couple of hundred dollars." Said I, "I don't want no present; I want what is right, and if you don't fix this matter up"——. I told him before, here in Sacramento, that I calculated to expose this matter.

Q.—Did you know Wand and Bullock, well, before you came here?

A.—I had been connected with Mr. Wand in the Democratic County Committee, in eighteen hundred and sixty-six and eighteen hundred and sixty seven. We were both ward politicians, as he terms them.

Q.—What other conversation passed in front of his store? Did you go into his store at all?

A.—No, sir; I didn't go further than the sidewalk.

Q.—Did he order you away from the sidewalk?

A.—No, sir, he did not.

Q.—He could not order you out of the store if you didn't go in?

A.—No, sir. As I said before, he said, "Let this matter go to hell, and I will make you a present of a couple of hundred dollars." I told him, "I wanted no presents, but my due." He said, "Judge Hager has gone to Washington, and I shall write him that it is necessary to have some more money; that there are other expenses that have not been paid; and then he will send me a letter or dispatch, and I will pay them."

Q.—Was that your last conversation with Wand about that?

A.—That was the last conversation I had with Mr. Wand about it, and the last time I have seen him—the second day of February.

Q.—During the time that you were here in Sacramento with them—Wand and Bullock—you say you were running around a good deal, and wore out your boots?

A.—Yes, sir.

Q.—You were running from one place to another, to shadow men, Mr. Wand states here?

A.—Oh, yes, Mr. Bullock made that assertion; I have been told he was the shadow himself; that Wand gave him money to pay his expenses.

Q.—You had money when you came up, didn't you?

A.—Yes, sir; I had a good deal of money at that time.

Q.—How much?

A.—It was, more or less, under a hundred dollars.

Q.—I asked you how much money you had.

A.—I had about forty dollars.

Q.—After that was expended in your contest for Assistant Sergeant-at-Arms for the Assembly, how did you get along?

A.—I borrowed money. I borrowed money from Mr. Conroy here.

Q.—The Sergeant at-Arms?

A.—Yes, sir.

Q.—Did you borrow from other parties?

A.—I did, sir. Well, Mr. Estee came to me here one day, and said, "You have been up here some time, and perhaps you are short of money; if you want any, let me know." Said I, "I have got some money for the present." Said he, "Well, don't run short; I wouldn't see you run short for anything." So I told him I had money at that time, and I didn't need any.

Q.—Do you know of any money being dispensed by Wand or Bullock, during this contest?

A.—Only what I was told.

Q.—Told by whom?

A.—What they intimated to me.

Q.—Did they state to you how much they had brought up to use in the contest?

A.—No, sir.

Q.—Did they state that they had money to use for Hager?

A.—No, sir; they did not.

Q.—Where were they going to get the money, if Murphy had accepted this proposition?

A.—I don't know.

Q.—Did they say anything to you about where the money was to come from?

A.—No, sir.

Q.—Did they say whether it was to be paid in gold notes or gold coin?

A.—No, sir.

Q.—Were you instructed by them, or either of them, to approach any one, except Fahey and Murphy?

A.—No, sir.

Q.—How had you been engaged all this time when this fight was being made. You had worked, you say, nobly; that they conceded, as well as Judge Hager did. What work had you done to merit that kind of praise?

A.—Well, sir, my work was simply this: I talked with several Dolly Vardens—Piebalds, as some calls them. I talked about Hager to the members, some of them; and done all I could for him.

Q.—What did you mean by saying to Mr. Wand what you did about an exposure—what was there to expose? You say that you had stated to parties here in the city, before you went to San Francisco, that you would expose this whole affair.

A.—I told parties that there was bribery in the matter, and that I was opposed to bribery and corruption.

Q.—What made you think that?

A.—By what he told me.

Q.—Was that the basis of your belief that bribery and corruption were being practiced?

A.—Yes, sir.

Q.—Then they didn't send you to any other party, to try to induce him to vote for Judge Hager?

A.—No, sir. No doubt they would not have sent me at all to Mr. Murphy but for this Mr. Casey going to Judge Hager. Then some one brought a letter to Mr. Murphy the next day after Casey went down. I have not read the letter, and don't know what is in it; but when that was received, I was sent after Mr. Murphy.

Q.—Were you sent after anybody else?

A.—No, sir; only to talk to somebody else.

Q.—Was anybody else singled out, either in the Assembly or Senate, to be approached by you?

A.—No, sir; not that I know of.

Q.—Where did you stop during all this time—where did you have your room?

A.—I roomed on Fifth street part of the time, and then I roomed on J street. I roomed in these two places all the time.

Mr. Curtis—How much money did you receive in all?

A.—One hundred and five dollars.

Q.—How much do you claim of them now?

A.—I don't claim anything.

Q.—Why is it that you state you wanted what was right, and would not take a present?

A.—I was here so long that I thought I was entitled to all I should claim.

Q.—How much do you claim?

A.—Nothing.

Q.—Did you tell them that you claimed anything?

A.—No, sir.

Q.—Then why did you go after them, at all?

A.—Well, I will tell you, if you will give me a chance. I first told Judge Hager—

Q.—How much did you state to them that you wanted?

A.—I didn't say so.

Q.—You would not accept a present—you told them you would not accept a present. Now, what did you mean?

A.—This was a little technicality.

Q.—How much did you want—how much did you demand of them?

A.—I didn't demand any amount at all.

Q.—Then why did you go to them. Why didn't you go to Judge Hager?

A.—How could I, when Judge Hager was away?

Q.—Mr. Wand said he would make you a present of one or two hundred dollars?

A.—He said he would, or send to Judge Hager, and ask him to send him a letter or dispatch for the money.

Q.—Didn't you state just now that you would not accept a present?

A.—Yes, sir, I did.

Q.—How much did you demand of him?

A.—I said I wanted no presents, but what was just that I should

have, for my services in Sacramento. I didn't state any amount of money.

Q.—Did you ever tell them how much your claim was?

A.—No, sir, I did not.

Q.—Did not Mr. Wand or Mr. Bullock give you any money, except to pay your legitimate expenses?

A.—No, sir.

Q.—Now, who first mentioned the name of Mr. Fahey?

A.—Both of them did.

Q.—Which one mentioned it first?

A.—Both of them mentioned him.

Q.—Which one mentioned him first?

A.—Mr. Bullock and Mr. Wand both mentioned him. It was simply this—I cannot answer, if you don't give me a chance. I suppose—

Q.—I want no supposition; answer the question: Who first mentioned the name of Mr. Fahey? Just answer the question?

A.—Both of them did.

Q.—Both at once?

A.—Both at the same time.

Q.—Now, what did they say about it? Now, I want you to answer a few questions, and say nothing but in answer to the questions. They didn't say you were to approach him?

A.—No, sir, they did not.

Q.—Now, did Mr. Wand or Mr. Bullock authorize you to offer money to Mr. Murphy?

A.—Yes, sir.

Q.—How much?

A.—Two hundred and fifty dollars.

Q.—Where was the money to come from?

A.—I didn't see the money, but he told me I would get the money. Mr. Bullock stated to me that if he would accept that, he would put the money into my hands.

Q.—Did you ever speak with Estee in the Democratic Convention?

A.—No, sir.

Q.—How is it that he ever came to say that he would not see you get short?

A.—Well, he came up to me—

Q.—You were not a particular friend, were you?

A.—Yes, sir.

Q.—Were you a particular friend of Mr. Estee's?

A.—Yes, sir. He was, in eighteen hundred and seventy-one, a Greeley man—

Q.—That is the time you made his acquaintance?

A.—Yes, sir.

Q.—Now he is a Dolly Varden. He didn't ask you anything about the Senatorial election, did he?

A.—No, sir.

Q.—How came he to make that statement to you that he would not see you short?

A.—I don't know, sir.

Q.—Why did he say that to you?

A.—Because he knew me in San Francisco. He knew me in eighteen hundred and seventy-one, at the State election. I was then for Governor Haight. He knew me, then, in the Presidential campaign; he was for Greeley.

Q.—Can you state how it is, or why it was, that Mr. Estee should approach you in that way?

A.—No; I think it was just his kindly feeling.

Q.—Did he have any reason to suppose you were short of money?

A.—I guess he didn't know I was overflowed.

Q.—Did either Mr. Bullock or Mr. Wand state to you who these Republicans were that Nat. Broughton had control of?

A.—No, sir.

Q.—They didn't give you any names, but just made the general statement?

A.—Yes, sir.

Q.—Did they state to you how he had control of them?

A.—They didn't tell me that he had rope around them, or anything of that sort; they simply said he had control of them; that's all.

Mr. Amerman—Did you ever hear who those Republicans were that Mr. Broughton had control of?

A.—No, sir, I did not.

Q.—Never heard their names mentioned at all?

A.—No, sir.

Mr. Coggins—Did either of them say that they were to receive any money from any source?

A.—No, sir.

Q.—Do you remember at what stage of the affairs it was that Mr. Estee stated to you that he wouldn't see you get short?

A.—I think it was about Tuesday, the ninth of January.

Q.—Did he make any reference to the Senatorial contest?

A.—No, sir, he did not; not a single sentence. I am sure if I wanted money I would only have to ask him for it. I wish to say one thing more. Mr. Wand says that this was not a Casserly fight. I want to say this, sir, that I never, sir, mentioned a word about Mr. Casserly in my conversation with them; and furthermore, I was here in eighteen hundred and sixty-seven, when Mr. Casserly was elected, and not one dollar or one dime did I receive from Mr. Casserly in that fight.

Mr. Norton—Did you state to them, or either of them, that if there was no money in the fight for Senator Hager—or Judge Hager then—that they had better go home?

A.—Never, sir.

Q.—Or anything to that effect?

A.—No, sir. Now about this thing here in Wand's testimony about being a servant or a messenger for him, I candidly assure you that if he or any man that makes such a proposition to me to be his servant, he would have measured his length on the floor immediately. Such a position, sir, I would scorn to hold.

Mr. Amerman—Did I understand you to say Mr. Boruck, or Mr. Bullock?

A.—Mr. Bullock, sir.

Mr. Norton—I want to call your attention to one fact: Did you approach Mr. Estee and ask him for money, or did he come to you and offer you money?

A.—He came to me voluntarily.

Q.—And offered you money?

A.—Yes, sir, and told me not to get short as long as I was here.

TESTIMONY OF M. M. ESTEE.

M. M. ESTEE, called, sworn, and examined:

The Chairman—Please state to the committee a conversation you had with Mr. Murray upon the occasion to which he has alluded in his testimony.

Mr. Norton—Are you acquainted with Richard Murray, of San Francisco?

Answer—Yes, sir.

Question—He states that some time during the late Senatorial contest he met you here in the City of Sacramento, and, I think, in this building, and that you approached him and asked him how he was off for money, etc. Is that true?

A.—I will tell the committee exactly what occurred, according to my recollection; in fact, what did occur, for I recollect the circumstances. I was coming down J or K street one evening, and I met him; and he walked with me down to Second street; and he told me that he was very short, and would like to get a little money. We talked about it for some time; and he told me he wanted to go down to San Francisco the next day and hadn't the means, and asked me for—I don't recollect the amount he wanted; it was three dollars or five dollars; something like that; I had ten dollars in my pocket—which was all I had with me—and I took it out and lent him the money. There never was a word said between him and me about politics. I will state, however, that I have always looked upon him as a very clever fellow, and that I undertook, some time ago, with two or three others, to get him into the employ of the Harbor Commissioners, in San Francisco, because I looked upon him as a good man. I just lent him the money—just as I would have done to any person from San Francisco; he asked me for the money, and I let him have the ten dollars. That is all I know about any such matter.

Q.—How long have you known him?

A.—I have known him four or five years, in San Francisco.

Q.—What reputation does he bear there for truth and veracity, honesty and integrity, so far as you know?

A.—I say I have known him by sight a number of years; and two years ago, in the Greeley fight, he was quite an active man. I always thought he was a very good kind of a man. He was then engaged in working on the wharf as a carpenter. But I have related what occurred at that interview, when I loaned him the money; I gave him the ten dollars, and it was every cent that I had in my pocket. I remember that, because soon after I met some friends, and had occasion to use some money, and I had to borrow five dollars—or a twenty-dollar piece, I don't remember now—from some friend, because I didn't have any money in my pocket; I recollect it distinctly.

TESTIMONY OF JAMES E. MURPHY.

JAMES E. MURPHY, called, sworn, and examined:

The Chairman—Please state to the committee the truth in regard to the statements made by Murray, and answer such questions as may be put to you by the committee.

Mr. Norton—You are a member of the Assembly?

Answer—Yes, sir, I am.

Question—You were here during the late Senatorial contest?

A.—Yes, sir.

Q.—Do you know Richard Murray, the witness who was upon the stand here?

A.—Yes, sir; I was acquainted with him slightly four years ago, while I was a member of the Legislature.

Q.—Did you see him here during the late Senatorial contest?

A.—Yes, sir, I did.

Q.—Did you have any conversation with him about voting for Judge Hager? Did he approach you upon that subject?

A.—Yes, sir.

Q.—How many times?

A.—Well, he spoke to me first at the first balloting. I was not a member of the caucus at the time Judge Hager was nominated, and did not vote for him, having private and personal grounds for not doing so.

Q.—Are the private and personal grounds alluded to in a letter that you received from Judge Hager, some time since?

A.—Yes, sir.

Q.—Have you any objection to spreading that before the committee?

A.—Certainly not. I will read it to the committee; it is in my pocket, here.

Q.—You have no objection to reading it?

A.—No, sir. It is dated December twenty-first, eighteen hundred and seventy-three.

Q.—That is the letter you received during that contest from Judge Hager?

A.—Yes, sir; I received that letter from Mr. Wand; I don't recollect the time, but I think it was the morning of the election of Judge Hager. I would state in this connection (if you will allow me), that I had said, that if a man was too proud to speak to me on the street I was too proud to vote for him.

Q.—You had been to the Legislature before?

A.—Yes, sir; I was a member of the Assembly while Judge Hager was a member of the Senate. I thought that he had slighted me. Besides that, I didn't in fact consider him a representative man of the Democratic party; he was not my choice, and if I could have had the opportunity of voting for another member of the party I should have done so; but I promised certain friends of mine that in case my vote was required for the party I would throw all personal considerations aside and vote for him.

Q.—Did you vote for Judge Hager more than once?

A.—No, sir; I voted for him on the last ballot only.

Q.—That was the ballot that elected him?

A.—Yes, sir.

Q.—Had you seen Mr. Murray that morning?

A.—No, sir, I had not.

Q.—Did you the day before?

A.—I don't think I did.

Q.—Did he come to you at any time and state to you that Mat. Broughton had the control of five or six Republicans?

A.—He came to me—I think it was three or four days before the election; I met him early in the evening at the Golden Eagle Hotel; I was in the barroom there, and Mr. Murray spoke to me, and wanted to know my reason for not voting for Judge Hager; I told him that was my business—something of that kind. Afterwards I met him, between ten and eleven o'clock, I think, that night, in front of the Orleans Hotel; he told me that—I don't recollect whether it was Wand or Bullock, or both—had authorized him to make a proposition—a money proposition to me to vote for Hager; I told him that any man that would make a proposition of that kind I considered a scoundrel, and I walked away from him.

Q.—You treated it with indignation?

A.—Yes, sir; I believe Mr. Fahey's name was mentioned; I told him I believed Mr. Fahey was too honorable a man to be influenced in any such way.

Q.—That was two or three days before the election?

A.—That was two or three days before the election; yes, sir; I never thought of the matter again until his testimony was given here to-night.

Q.—Did he, in any conversation he had with you, state that Mr. Broughton had control of five or six Republicans?

A.—Well, he stated that Wand and Bullock had told him that.

Q.—The same in substance that he has stated here?

A.—Well, I don't know that he mentioned Broughton's name; he said that the Republicans were controlled by some one.

Q.—And would go for Hager whenever they got within reach?

A.—I don't recollect if he used that language; he said they would go for Hager.

Q.—Did he state what amount of money?

A.—I think he said three hundred dollars, or five hundred dollars, or two hundred and fifty dollars—somewhere along there; I paid no particular attention to the amount.

Q.—Was anybody with you during this conversation?

A.—No, sir; I was talking to some parties whom I supposed to be in the interest of Governor Downey; and he called me a oneseide; he engaged in the discussion that was going on among those gentlemen, and after they got through, I was going into the Orleans or the Union and he spoke to me.

Q.—What time of night was that?

A.—Probably about ten o'clock.

Here the committee adjourned.

TUESDAY, March 3d, 1874.

Committee met at half-past seven o'clock, P. M. Present—a quorum.

TESTIMONY OF JAMES T. BARRON.

JAMES T. BARRON, called, sworn, and examined:

The Chairman—I would state that the object of this investigation is to ascertain the truth in regard to the alleged fraud and corruption charged against certain members of the Assembly in regard to the late Senatorial contest. You will please state to the committee what you know about the matter, and answer such questions as may be asked you by the committee.

Mr. Norton—Where do you reside and what's your name?

A.—I reside at forty-six L street, between Second and Third, in this city. My name is James T. Barron.

Q.—How long have you resided there, Mr. Barron?

A.—Over nine years, sir.

Q.—What business are you in—the saloon business?

A.—No, sir; my occupation up to the first of August, for three years previous, has been Assistant Engineer of the volunteer and paid fire department; also, my occupation here in town has been interpreter for the Police, County, and District Courts. I fill the position of interpreter at the present time.

Q.—Are you acquainted with Mr. Escandon, the member of the Assembly?

A.—I have been acquainted with him since four years ago, at the session of the Legislature, when he was here, I believe, a representative; I think that was the time.

Q.—Do you know a man by the name of Jimenez, that was with Mr. Escandon?

A.—Yes, sir; I know him about the same length of time.

Q.—Were they at your place together during the Senatorial contest, or soon after the Senator was elected—here in Sacramento?

A.—Yes, sir, they have been there several times; they have been there previous to the election of the Senator, together; after, they have not.

Q.—Did you have a conversation with Jimenez about the Senatorial contest—about what he had said to Mr. Escandon about voting for Governor Booth?

A.—I did have some conversation with him.

Q.—State to the committee what Jimenez said to you?

A.—Mr. Jimenez came to my house, I should judge, about ten o'clock one morning—I am not positive whether it was one day or two days previous to the election. We had talked several times before on the election of Senator, and I asked Mr. Jimenez if he thought that Mr. Escandon would vote for Governor Booth for Senator. I had seen in the papers that Senator Graves was going to vote for him, and thought that as Senator Graves, who was from the same county that Mr. Escandon was from, was going to vote for Governor Booth, that Mr. Escandon also would. Jimenez said, "I tell you, here, confidentially"—my brother-in-law was with me (there was only the three of us together)—"I tell you, here, confidentially, that Escandon is a fool. I know that he could have made ten or fifteen thousand dollars by having

given his vote for Governor Booth." I laughed at him. I laughed at the remark that he made—these remarks; and then he said, "Escandon, he is like a rock; it would take a twenty-four-pounder for to remove his opinion; he is bound to die with his party"—that is, referring to Mr. Escandon's politics. That was about the sum and substance of the conversation that took place between us.

Q.—Did you inquire of him who it was that would give Mr. Escandon ten or fifteen thousand dollars if he would vote for Governor Booth?

A.—I didn't, sir; I did not.

Q.—Did he allude to any person who would do that thing—did Jimenez?

A.—Jimenez's language was as I stated—that he knew that Mr. Escandon could have made ten or fifteen thousand dollars.

Q.—That was all he said about it?

A.—That was the sum and substance of the conversation, at that time.

Q.—You didn't ask him how he knew?

A.—No, I didn't ask him how he knew. That is the language that he used.

Q.—That was three or four days before Governor Booth was elected?

A.—I won't be positive about it; it was two days or a day previous to the election.

Q.—That was the only conversation you had with him?

A.—There was other conversation, but nothing in regard to money.

Q.—Nothing in regard to bribery?

A.—Nothing in regard to money.

Q.—Did you, yourself, take any part in the struggle?

A.—No, sir, I did not. My sympathies were for Governor Booth, and, knowing Mr. Escandon—I am very intimate with him since I have known him; he has made my house, you might say, his house since he has been here; he is, off and on, there every day; passes the evening there when not otherwise occupied—and knowing his politics, and having talked with him—we have talked over the matter quite frequently—I asked him if he would vote for Governor Booth. He said no; that how could he go back to the county that he represented, and present himself to his wife, and she to say to him, "You have betrayed those that have elected you, and not voted for the party that has elected you."

Q.—He said he could not do it?

A.—Yes, sir.

Q.—Do you know of any money being used in the Senatorial contest?

A.—No, sir.

Q.—For Governor Booth, or any other person?

A.—I do not, sir. I have given Jimenez money myself, to defray his expenses. He came to me to borrow money.

Q.—He came to you to borrow money?

A.—Yes, sir. That was about the same time, I believe, that him and Escandon had some difficulty.

Q.—Did he allude to that difficulty?

A.—He did not, sir. Mr. Escandon spoke to me about it, and when Mr. Escandon spoke to me about it, I told him—

Q.—What did Mr. Escandon say was the cause of the difficulty?

A.—He said that Jimenez had approached and made an offer to him—told him that if he would consent to give his vote for Governor Booth that he would introduce him to a man who would give him ten or fifteen thousand dollars. When Mr. Escandon mentioned the matter to me, I told him that Jimenez had used the language that I have given here.

Q.—Did you commence the conversation with Jimenez, or did he, when he said Mr. Escandon was a fool?

A.—Well, I could not say exactly; it was a general conversation; I could not say exactly. I think I asked him the question—I am pretty positive, having seen in the papers that Senator Graves was going to vote for Governor Booth—I asked him if Mr. Escandon would also vote for him.

Q.—Had Mr. Escandon told you before that time of the difficulty between him and Jimenez, or was it afterwards that he told you?

A.—Escandon, I believe, told me of the difficulty with Jimenez after that.

Q.—You say he stated to you the difficulty that occurred between them?

A.—Yes, sir. I am trying to recollect whether it was after he went to San Francisco or before.

Q.—Can you remember whether it was before the time that Jimenez told you that Escandon was a fool, or not?

A.—No, sir; it was after. Mr. Escandon told me that Jimenez had made those propositions to him after Jimenez had had the conversation with me; and it was after Mr. Jimenez and Mr. Escandon had this difficulty.

Q.—You asked Jimenez about it because you had seen in the papers that Senator Graves was likely to change and go for Governor Booth?

A.—And also the paper stated that Mr. Escandon would.

Q.—What paper did you see that in?

A.—I think it was in the *Sacramento Union*; I could not say exactly. It was the paper of that date—the *Union* or *Record*.

Q.—Did you see Jimenez when he was up here to testify before the committee?

A.—I did, sir; I saw him on the Sunday.

Q.—Did you then talk with him what he said to you about this matter?

A.—General conversation, not the particulars. He started off to tell me what he had said to Mr. Escandon, the conversation that had passed between them, and also that he didn't remember of having said anything to my brother-in-law or me, or any person about what passed here. I laughed at him and called it to his memory.

Q.—Did you call this to his memory?

A.—Which I have stated to you.

Q.—Did he deny it?

A.—He told me that he must have been, probably, drunk.

Q.—He didn't deny it, then?

A.—No, sir; he said he could not remember anything of it. He said, "You know that Escandon and I have been together——"

Q.—Was that conversation before he testified, or afterwards?

A.—Before. It was Tuesday, and we probably had five minutes conversation in front of the Union. I met him there, and spoke to him about that conversation, and one thing and another.

Mr. Coggins—Were they in the habit of drinking, either of them, so much as to interfere with their memory?

A.—Well, no, sir. Escandon, I have never seen him any worse for liquor; I have seen Jimenez. On this occasion it was in the morning, and he was as sober as I am, and I don't drink any whisky, or any kind of liquor.

Mr. Norton—Was Jimenez drunk at the time he told you this?

A.—No more than I am, and I don't drink any liquor at all.

Q.—I mean at the time he said that Escandon was a fool?

A.—No, sir; he had probably taken his glass of liquor——

Q.—He was sober, then?

A.—Yes, sir. He picked up the guitar, and played the guitar for awhile there, and one conversation brought on another, and he made this statement.

Q.—Your brother-in-law was there?

A.—Yes, sir. Mr. Jimenez was probably four feet from me and four feet from my brother-in-law. The conversation took place in Spanish.

Q.—Does your brother-in-law talk Spanish?

A.—He is a Mexican, sir; he can't speak English.

Q.—Can't he speak so as to be understood, or must he testify through an interpreter?

A.—He will have to do it through an interpreter; he speaks no English at all.

TESTIMONY OF JUAN CIENFUEGOS.

JUAN CIENFUEGOS, called, sworn, and examined:

JAMES T. BARRON sworn as interpreter.

Mr. Norton—Ask him if he knows Jimenez.

A.—Yes, sir.

Q.—Ask him if he remembers the time when Jimenez, at your place, was talking about Mr. Escandon not voting for Booth?

A.—He does remember.

Q.—Tell him to state what Jimenez said?

A.—What Jimenez said was in response to a question asked him.

Q.—Tell him to state what he did say?

A.—He said the question was, whether Mr. Escandon was going to give his vote for Governor Booth. The answer then given was: "Oh, no! Escandon will not give his vote for Booth; he is too strong; he is a man that is opposed;" and it was impossible for him to give his vote, and that he was a fool; that now was a chance for him to make ten or fifteen thousand dollars.

Q.—Ask him if Jimenez told him who he could get ten or fifteen thousand dollars from?

A.—No, sir. He says Jimenez said he could have had ten or fifteen thousand dollars.

Q.—If he would vote for Booth?

A.—Yes, sir; if he would give his vote for Governor Booth.

Q.—Ask him if he has talked with Jimenez about it since he came up here?

A.—No, sir.

Q.—Has not seen him?

A.—Has not seen him.

Q.—Ask him if he knows of any money being used to gain votes for anybody for Senator?

A.—No, sir; he does not; all he knows in regard to it is what conversation took place there; that is all he knows about it.

Q.—Ask him what Jimenez's condition was, as to being drunk or sober, at the time he made that statement?

- A.—No, sir; he did not see him drunk; he says he was in his senses.
 Q.—Was he drunk, or sober?
 A.—No, sir; he was sober.
 Q.—Sober?
 A.—Yes, sir.
 Q.—When he was speaking, at that time?
 A.—Yes, sir; he was sober.
 Q.—Ask him if he stated that to you and him in confidence—confidentially, there?
 A.—Yes, sir; in confidence.
 Q.—Ask him if that's all he knows about it?
 A.—That is all; nothing else.
Mr. Coggins—Does he reside in this city, or in San Buenaventura?
Mr. Barron—He resides with me; he is my brother-in-law.
 Q.—He resides here?
 A.—Yes, sir; he resides here with me.
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TESTIMONY OF JESUS SAINZES.

JESUS SAINZES, called, sworn, and examined:

- Mr. Norton*—Do you know a man by the name of Jimenez?
 A.—Jimenez? Yes, sir.
 Q.—Did you hear a conversation that he had with this gentleman (Mr. Barron) two or three days before, or a day or two before Governor Booth was elected Senator?
 A.—The day before?
 Q.—Was it the day before?
 A.—I believe it was after—two or three days after the election took place.
 Q.—You think it was two or three days after the election?
 A.—Yes, sir.
 Q.—What did this gentleman, Jimenez, say to you about Mr. Escandon?
 A.—Well, he told me (I understand this) that Mr. Escandon had a chance to make a very good thing—a good business.
 Q.—Did he state how much?
 A.—Well, I understand him to say from five to ten thousand dollars.
 Q.—You understood him to say from five to ten thousand dollars?
 A.—Yes, sir. He made the remark: "I wish I had been in his boots."
 Q.—He said he wished he had been in his boots?
 A.—In Mr. Escandon's boots—yes, sir.
 Q.—For the reason that he could have made five or ten thousand dollars?
 A.—Yes, sir.
 Q.—How could he make it?
 A.—He didn't exactly say, but he made me understand—at least, I understood it in that way—that Mr. Escandon had heard—if he could induce Mr. Escandon to do what he wanted, that he could make that much.

Q.—What did he want Escandon to do?

A.—To vote for the other party against this——

Q.—Did he want him to vote for Governor Booth?

A.—Yes, sir; for Governor Booth.

Q.—Did he say that he had tried to convince Mr. Escandon that it was best for him to do it?

A.—Yes, sir. He told me that he went to Mr. Escandon two or three days before the election, and tried to convince him to vote for Governor Booth.

Q.—How did he say he tried to convince him?

A.—He was trying to tell Mr. Escandon, and Escandon would not hear him.

Q.—What did he tell Mr. Escandon; that he could get five or ten thousand dollars for——

A.—He told him that there was a man that had told him to try and get Escandon to vote for Booth, and that if he would do it——

Q.—Did he tell you who that man was?

A.—No, sir; he didn't say. Escandon was there at the same time, and told me at that time Jimenez was after him to convince him to do it; that he stated this to Jimenez: "You are my friend, but I want you to let me alone until you give up that idea; whenever you give up that idea you come back to me."

Q.—You understood from Jimenez that he tried to buy Escandon in this way?

A.—Yes, sir.

Q.—That's what he said to you?

A.—Yes, sir; that is what he stated. Of course he said——

Q.—The inducement was five or ten thousand dollars?

A.—Yes, sir.

Q.—And if he would agree to vote for Governor Booth, he would take him to a man who would give him that amount?

A.—Yes, sir.

Q.—There seemed to have been an arrangement between this man and Jimenez?

A.—Yes, sir.

Q.—That was the sum and substance of his statement?

A.—Yes, sir.

Q.—Who else was by when he talked with you about it? At what place was this conversation held?

A.—On second street, at a house of Mr. Barron's.

Q.—Was it the same conversation alluded to by Mr. Barron.

A.—No, sir.

Mr. Barron—It is a house I own, but not the house where I live.

Q.—(To Mr. Barron)—Was this the same conversation that you spoke of?

A.—No, sir.

The Witness—When Mr. Escandon stated to me that what he told Jimenez—to let him alone, that he must not speak to him about that again, but let him be, and go about his business—Jimenez proved to me that it was so. He told me that it was so, what Escandon had stated to me. He said that Mr. Escandon had told him not to talk to him any more about it, but when Governor Booth was elected, to come talk to him again.

Q.—Is that all you know about it?

A.—Yes, sir.

Q.—You don't know of any money, or anything of value, being used in the Senatorial contest?

A.—No, sir.

Mr. Coggins—Did you ask him who the man was who would give him the money?

A.—No, I did not, sir.

Upon motion of Mr. Norton, the committee went into executive session.

Mr. Norton—I move, Mr. Chairman, that the testimony in this investigation be now declared closed.

The motion was seconded and carried.

It was resolved to submit a preliminary report to the Assembly, tomorrow morning, stating that the testimony was closed, and recommending that it be ordered printed, the committee requiring time to examine the testimony, before submitting their final report.

The meeting was then adjourned, subject to the call of the Chairman.

may 21 1890

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